TITLE TWO. Pretrial and Trial Rules

DIVISION I. Rules for the Trial Courts

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts; Division amended effective July 1, 2002; adopted effective January 1, 1949 pursuant to the authority contained in Section 6, Article VI, California Constitution, and Code of Civil Procedure section 575; previously amended effective January 1, 2001.

CHAPTER 1. General Provisions

Part 1. Application, Definitions, and Timing

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part 1, Applications, Definitions, and Timing; adopted; effective January 1, 2003.

Rule 200. Application

The rules in this division apply to all cases in the trial courts unless otherwise specified by these rules or by statute.

(Subd (a) amended and relettered effective January 1, 2003; previously amended effective January 1, 2002.)

(Subd (b) repealed effective January 1, 2003.)

Rule 200 amended effective January 1, 2003; adopted effective January 1, 2001; previously amended effective January 1, 2002.

Drafter's Notes:
2001—Rules 200, 201, 109, 222.1, 298, 299, 501–598, and 709 (Repeal of municipal court rules in light of trial court unification). To eliminate the duplicative rules in the "200" series for superior courts, in the "500" series for municipal courts, and for limited civil cases and misdemeanor cases in unified courts, all of the 500 series is repealed and the 200 series is applicable to all trial courts in all types of cases. The 200 series rules now occasionally make a distinction between limited cases and unlimited cases, but for the most part the same rules apply to both types of cases.

2002—Obsolete references to "municipal courts" have been deleted from rules 200 and 301. Rule 201 (on captions) reflects the new amended statutes on the reclassification of civil cases. A reference to the optional use of certain civil harassment and workplace violence forms that were recently made mandatory was deleted from rule 363.

Rule 200.1. Definitions

As used in this title, unless the context or subject matter otherwise requires:

(1) "Case" includes action or proceeding.

(2) "General civil case" means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act; freedom from parental custody and control proceedings; and adoption proceedings), juvenile court proceedings, small claims proceedings, unlawful detainer proceedings, and "other civil petitions" as defined by the Judicial Branch Statistical Information Data Collection Standards.

(3) The definitions of "unlimited civil cases" and "limited civil cases" are, for the purposes of these rules, the definitions contained in Code of Civil Procedure section 85 et seq.

(4) "Court" means the trial court.

(5) "Local rule" means every rule, regulation, order, policy, or standard of general application adopted by a court to govern practice and procedure in that court or by a judge of the court to govern practice or procedure in that judge's courtroom.

(6) "Judge" includes, as applicable, a judge of the superior court, a commissioner, or a temporary judge.

(7) "Presiding judge" includes the acting presiding judge.

(8) "Party," "applicant," "petitioner," or any other designation of a party includes such party's attorney of record.

(9) "Service." Whenever under these rules a notice or other paper is required to be served on or given to a party, such service or notice must be made on the party's attorney of record if there is one.

(10) The words “serve and file” mean that a paper filed in a court must be accompanied by proof of prior service, in a manner permitted by law, of a copy of the paper on each party.

(11) The terms “written,” “writing,” “typewritten,” and “typewriting” include other methods equivalent in legibility to typewriting.

Rule 200.1 adopted effective January 1, 2003.

Rule 200.2. Construction of terms

(1) The past, present, and future tense each includes the others.

(2) The masculine, feminine, and neutral gender each includes the others.

(3) The singular and plural number each includes the other.

(4) The words “must” and “shall” are mandatory and the word “may” is permissive.

Rule 200.2 adopted effective January 1, 2003.

Rule 200.3. Time for actions

(a) [Computation of time] The time in which any act provided by these rules is to be done is computed by excluding the first day, and including the last, unless the last day is a legal holiday, and then it is also excluded.

(b) [Holidays] If the last day for the performance of any act that is required by these rules to be performed within a specific period of time falls on a legal holiday, then the period is extended to and includes the next day that is not a holiday.

(c) [Extending or shortening time] Unless otherwise provided by law, the court may extend or shorten the time by which a party must perform any act under these rules.

Rule 200.3 adopted effective January 1, 2003.

Part 2. Form and Format of Papers

Title Two, Pretrial and Trial Rules—Division I, Rules for Trial Courts—Chapter 1, General Provisions—Part 2, Form and Format of Papers, adopted effective January 1, 2003.

Rule 201. Form of papers presented for filing

Rule 201. Form of papers presented for filing

(a) [Definitions] As used in this rule:

(1) "Papers" includes all documents, except exhibits or copies of documents, that are offered for filing in any case; but it does not include Judicial Council and local court forms, records on appeal in limited civil cases, or briefs filed in appellate divisions.

(2) "Recycled" as applied to paper means "recycled paper product" as defined by section 42202 of the Public Resources Code.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 1993, and January 1, 1994.)

(b) [Use of recycled paper; certification by attorney or party]

(1) The use of recycled paper is required for the following:

(A) All original papers filed with the court and all copies of papers, documents, and exhibits, whether filed with the court or served on other parties; and

(B) The original record on appeal from a limited civil case, any brief filed with the court in a matter to be heard in the appellate division, and all copies of such documents, whether filed with the court or served on other parties.

(2) Whenever the use of recycled paper is required by these rules, the attorney, party, or other person filing or serving a document certifies, by the act of filing or service, that the document was produced on paper purchased as recycled.

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1999.)

(c) [Size of paper, type style, and print color]

(1) All papers must be typewritten or printed or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally as legible as printing in type not smaller than 12 points, on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight, 8 ½ by 11 inches.

(2) The typeface must be essentially equivalent to Courier, Times Roman, or Helvetica.

(3) The color of print must be blue-black or black.

(Subd (c) amended effective January 1, 2003; previously amended and relettered effective July 1, 1999; previously amended effective April 1, 1962, July 1, 1964, July 1, 1969, July 1, 1971, January 1, 1976, January 1, 1993, July 1, 1993, and January 1, 1994.)

(d) [Line spacing and numbering]

(1) Only one side of the paper may be used, and the lines on each page must be one and one-half spaced or double spaced and numbered consecutively.

(2) Descriptions of real property may be single spaced and footnotes, quotations, and printed forms of corporate surety bonds and undertakings may be single spaced and have unnumbered lines if they comply generally with the space requirements of (f).

(3) The left margin must be at least one inch from the left edge of the paper and the right margin at least 1/2 inch from the right edge of the paper.

(4) Line numbers must be placed at the left margin and separated from the text of the paper by a vertical column of space at least 1/5 inch wide or a single or double vertical line. Each line number must be aligned with a line of type or the line numbers must be evenly spaced vertically on the page. Line numbers must be consecutively numbered beginning with the number 1 on each page. There must be at least three line numbers for every vertical inch on the page.

(Subd (d) amended effective January 1, 2003; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective January 1, 1999.)

(e) [Page numbering and hole punching]

(1) Each page must be numbered consecutively at the bottom.

(2) Each paper must consist entirely of original pages without riders, and must be firmly bound together at the top.

(3) Exhibits may be fastened to pages of the specified size and, when prepared by a machine copying process, must be equal to typewritten material in legibility and permanency of image.

(4) Each paper presented for filing must contain two pre-punched normal-sized holes, centered 2 ½ inches apart, and 5/8 inch from the top of the paper.

(Subd (e) amended effective January 1, 2003; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective January 1, 1994.)

(f) [Format of first page] The first page of each paper must be in the following form:

(1) In the space commencing 1 inch from the top of the page with line 1, to the left of the center of the page, the name, office address or, if none, residence address, telephone number, fax number and e-mail address (if provided), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person; but the name, office address, telephone number, and State Bar membership number of the attorney printed on the page is sufficient. Inclusion of a fax number or e-mail address on any document is optional, and its inclusion does not constitute consent to service by fax or e-mail unless otherwise provided by law.

(2) In the first 2 inches of space between lines 1 and 7 to the right of the center of the page, a blank space for the use of the clerk.

(3) On line 8, at or below 3 1/3 inches from the top of the paper, the title of the court.

(4) Below the title of the court, in the space to the left of the center of the page, the title of the case. In the title of the case on each initial complaint or cross-complaint, the name of each party must commence on a separate line beginning at the left margin of the page. On any subsequent pleading or paper, it is sufficient in the title of the case to (1) state the name of the first party on each side, with appropriate indication of other parties, and (2) state that a cross-action or cross-actions are involved, if applicable.

(5) To the right of and opposite the title, the number of the case.

(6) Below the number of the case, the nature of the paper and, on all complaints and petitions, the character of the action or proceeding. In a case having multiple parties, any answer, response, or opposition must specifically identify the complaining, propounding, or moving party and the complaint, motion, or other matter being answered or opposed.

(7) Below the nature of the paper or the character of the action or proceeding, the name of the judge and department, if any, to which the case is assigned.

(8) Below the nature of the paper or the character of the action or proceeding, the word "Referee:" followed by the name of the referee, on any paper filed in a case pending before a referee appointed pursuant to Code of Civil Procedure section 638 or 639.

(9) On the complaint, petition, or application filed in a limited civil case, below the character of the action or proceeding, the amount demanded in the complaint, petition, or application, stated as follows: "Amount demanded exceeds $10,000" or "Amount demanded does not exceed $10,000," as required by Government Code section 72055.

(10) In the caption of every pleading and every other paper filed in a limited civil case, the words "Limited Civil Case," as required by Code of Civil Procedure section 422.30(b).

(11) If a case is reclassified by an amended complaint, cross-complaint, amended cross-complaint, or other pleading under Code of Civil Procedure section 403.020 or 403.030, the caption must indicate that the action or proceeding is reclassified by this pleading. If a case is reclassified by stipulation under Code of Civil Procedure section 403.050, the title of the stipulation must state that the action or proceeding is reclassified by this stipulation. The caption or title must state that the case is a limited civil case reclassified as an unlimited civil case, or an unlimited civil case reclassified as a limited civil case, or other words to that effect.

(Subd (f) amended effective January 1, 2003; adopted as subd (c) effective January 1, 1949; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective January 1, 1978, July 1, 2000, January 1, 2001, and January 1, 2002.)

(g) [Footer] Except for exhibits, each paper filed with the court must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer must contain the title of the paper (examples: "Complaint," "XYZ Corp.'s Motion for Summary Judgment") or some clear and concise abbreviation. The title of the paper must be in at least 10-point type.

(Subd (g) amended effective January 1, 2003; adopted effective January 1, 1999 as subd (f); previously relettered effective July 1, 1999; previously amended effective July 1, 2000.)

(h) [Changes on face of paper—conformance of copies] Additions, deletions, or interlineations must be initialed by the clerk or judge at the time of filing. All copies served must conform to the original filed, including the numbering of lines, pagination, additions, deletions, and interlineations.

(Subd (h) amended effective January 1, 2003; adopted effective January 1, 1949 as subd (d); previously amended and relettered effective July 1, 1999; previously relettered as subd (g) effective January 1, 1999, and as subd (f) effective July 1, 1993.)

(i) [Several causes of action, defenses, etc.] Each separately stated cause of action, count, or defense must be separately numbered.

(Subd (i) amended effective January 1, 2003; adopted effective January 1, 1949 as subd (e); previously amended and relettered effective July 1, 1999; previously relettered as subd (h) effective January 1, 1999, and as subd (g) effective July 1, 1993; previously amended effective January 1, 1973.)

(j) [Acceptance for filing] The clerk of the court must not accept for filing or file any papers that do not comply with this rule, except:

(1) The clerk must not reject a paper for filing solely on the ground that it is handwritten or handprinted or that the handwriting or handprinting is in a color other than blue-black or black.

(2) For good cause shown, the court may permit the filing of papers that do not comply with this rule.

(Subd (j) amended effective January 1, 2003; previously relettered effective January 1, 1999; previously relettered as subd (h) effective January 1, 1966, July 1, 1974, and January 1, 1978; previously amended and relettered as subd (g) effective January 1, 1984; previously relettered as subd (i) effective July 1, 1993.)

(k) Except as provided, this rule does not apply to Judicial Council forms, local court forms or forms for juvenile dependency proceedings produced by the

California State Department of Social Services Child Welfare Systems Case Management System.

(Subd (k) amended and relettered effective January 1, 2003; adopted as subd (m) effective January 1, 1998; repealed as [Use of recycled paper for records on appeal from municipal courts in civil cases and for briefs filed in the appellate departments] effective July 1, 1999; previously relettered subd (n) effective January 1, 1999, and as subd (m) effective July 1, 1999.)

Rule 201 amended effective January 1, 2003; adopted effective January 1, 1949; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, January 1, 1966, July 1, 1969, July 1, 1971, January 1, 1973, July 1, 1974, January 1, 1976, January 1, 1978, May 6, 1978, January 1, 1984, April 1, 1990, July 1, 1990, January 1, 1992, July 1, 1992, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2000, and January 1, 2001.

Advisory Committee Comment

1998—The California Department of Social Services (CDSS) has begun to distribute a new, comprehensive, computerized case management system to county welfare agencies. This system is not able to exactly conform to Judicial Council format in all instances. However, item numbering on the forms will remain the same. The changes allow CDSS computer-generated Judicial Council forms to be used in juvenile court proceedings.

Drafter's Notes

1992—Rule 201(f) was amended to specify that an attorney need not use the Judicial Council form for a petition for a writ of habeas corpus in superior court.

January 1993—The council adopted amendments to rules 9, 15, 44, 201, and 501 of the California Rules of Court, effective January 1, 1993, to (1) expressly permit and encourage litigation documents, reporter's transcripts, and records on appeal to be on recycled paper and (2) allow the use of unbleached paper.

July 1993—The council adopted amendments to rules 201 and 501, effective July 1, 1993, to (1) require two-hole punching at the top of each document; (2) provide a standard form of line numbering, type size, type style, and type color; (3) provide style and availability rules for local forms; and (4) require an attorney's State Bar number on pleadings.

1994—New and amended California Rules of Court (new rules 989.1, 1071.5; amended rules 9, 40, 44, 201, 501) require the use of recycled paper for original papers filed in California courts after January 1, 1995, and for copies after January 1, 1996. The rules provide that an attorney, by the act of filing the document, certifies that recycled paper was used.

1998—This rule was amended to not apply to forms for juvenile dependency proceedings produced by the California State Department of Social Services Child Welfare Systems Case Management System.

1999—Amended rules 201 and 501 require that each paper filed in superior and municipal courts include a footer stating the title of the paper in the bottom margin of each page. Additionally, amended rule 501 requires litigants to state, on the first page of the complaint or petition, whether the amount demanded exceeds or does not exceed $10,000 and whether the case is a "limited civil case" (i.e., amount in controversy is less than $25,000).

Amended rule 201(h) requires a habeas corpus petition that is not on the Judicial Council form (Form MC-275) to list all pertinent information, including information regarding the filing of other petitions.

2000—Rules 201, 313, 324, 325, 376, 379, 388, 391, 501, and 981.1 (Uniform Statewide Rules). Rule 981.1, which preempts all local rules in the civil pretrial area, goes into effect on July 1, 2000. The rule was amended to clarify the scope of preemption, and to create a temporary exception for local rules relating to class actions, eminent domain proceedings, and receivership proceedings. This exception will last until January 1, 2002, when the Judicial Council is expected to develop statewide rules in these areas.

A number of statewide rules were adopted in response to courts' requests that their local rules be adopted statewide, before the preemption of local rules goes into effect:

- Amended rules 201 and 501 provide that, at the option of the person filing papers, a fax number and an e-mail address may be included on the first page of the papers.
- Amended rule 313 clarifies the proper manner of paginating a memorandum.
- Amended rule 324, on tentative rulings, clarifies the rule and allows courts to make tentative rulings available not only by telephone, but also by other methods.
- Amended rule 325 requires that demurrers be set for hearing on a date no later than 35 days following the filing of the demurrer.
- Amended rule 376 requires the use of a new Judicial Council form for all motions to be relieved as counsel.
- Amended rule 379 requires that the party making an ex parte application include in a declaration that the opposing party has been notified of the relief sought.
- New rule 388 lists the documents that must be filed in order to obtain a default judgment on declarations.
- Amended rule 391 clarifies the purpose and procedures for the preparation of orders after a hearing.

2001—See note following rule 200.

2002—The new and amended rules govern habeas corpus proceedings in the superior courts. For the most part, these rules reflect existing law. However, they do change the procedure in one significant respect: if the petition is filed in an inappropriate county, the court now has the authority to transfer the petition to a more appropriate court without first determining whether it states a prima facie case.

Part 3. Judicial Council and Local Court Forms

Title Two, Pretial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part 3, Judicial Council and Local Court Forms; adopted effective January 1, 2003.

Rule 201.1. Judicial Council forms

(a) Judicial Council forms are either mandatory or optional.

(Subd (a) adopted effective January 1, 2003.)

(b) [Mandatory forms]

(1) Forms adopted by the Judicial Council for mandatory use are forms prescribed under Government Code section 68511. Wherever applicable, they must be used by all parties and must be accepted for filing by all the courts.

(2) Each mandatory Judicial Council form is identified as mandatory by an asterisk (*) on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court. The list is available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.

(3) Forms adopted by the Judicial Council for mandatory use bear the words "Form Adopted for Mandatory Use" or "Mandatory Form" in the lower left corner of the first page.

(4) Publishers and courts reprinting a mandatory Judicial Council form in effect before July 1, 1999, must add the words "Mandatory Form" to the bottom of the first page.

(5) The court may not alter a mandatory Judicial Council form and require the altered form's use in place of the Judicial Council form.

(6) The court may not require that any mandatory Judicial Council form be submitted on any color paper other than white.

(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (a) effective November 10, 1969; previously amended effective July 1, 1990.)

(c) [Optional forms]

(1) Forms approved by the Judicial Council for optional use, wherever applicable, may be used by parties and must be accepted for filing by all the courts.

(2) Each optional Judicial Council form appears, without an asterisk (*), on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court. The list is available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.

(3) Forms approved by the Judicial Council for optional use bear the words "Form Approved for Optional Use" or "Optional Form" in the lower left corner of the first page.

(4) Publishers and courts reprinting an optional Judicial Council form in effect before July 1, 1999, must add the words "Optional Form" to the bottom of the first page.

(5) The court may not alter an optional Judicial Council form and require the altered form's use in place of the Judicial Council form.

(6) The court may not require that any optional Judicial Council form be submitted on any color paper other than white.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (b) effective July 1, 1976; previously amended effective July 1, 1990.)

(d) [Statutory references on the forms] The references to statutes and rules in the lower right corner of Judicial Council forms are advisory only. The presence or absence of a particular reference is not a ground~~s~~ for rejecting a form otherwise applicable in the action or proceeding for the purpose presented.

(Subd (d) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1990.)

(e) [Proofs of service] Proofs of service are included on some Judicial Council forms solely for the convenience of the parties. A party may use an included proof of service or any other proper proof of service.

(Subd (e) adopted effective January 1, 2003.)

(f) [Matter added by the courts or others] A court must not reject for filing a Judicial Council form for any of the following reasons:

(1) The form lacks the preprinted title and address of the court or the clerk's preprinted name;

(2) The form is printed by a publisher or another court;

(3) The preprinted title and address of another court or its clerk's name is legibly modified;

(4) The form lacks the name of the clerk;

(5) The form lacks the court's local form number;

(6) The form lacks any other material added by a court, unless the material is required by the Judicial Council;

(7) The form is imprinted with the name or symbol of the publisher, unless the name or symbol replaces or obscures any material on the printed form; or

(8) The form is legibly and obviously modified to correct a code section number or to comply with the law under which the form is filed.

(Subd (f) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1976; previously amended and relettered as subd (d) effective July 1, 1999.)

(g) [Multiple-page forms] If a Judicial Council form is longer than one page, the form may be filed on sheets printed on only one side even if the original form has two printed sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse side must be rotated 180 degrees (printed head to foot).

(Subd (g) amended and relettered effective January 1, 2003; adopted as subd (e) effective July 1, 1999.)

(h) [Legibility] Any Judicial Council form filed must be a true copy of the original form and must be as legible as a printed form.

(Subd (h) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1988; previously amended and relettered effective July 1, 1999.)

(i) [Electronically produced forms] A party or attorney may file a duplicate of a Judicial Council form produced by a computer and a printer or similar device with a resolution of at least 300 dots per inch. The device must print, in a contrasting typestyle equivalent to that produced by a typewriter, text that otherwise would have been entered by a typewriter or word processor.

(Subd (i) amended and relettered effective January 1, 2003; adopted as subd (e) effective July 1, 1988; previously amended and relettered effective July 1, 1999.)

(j) [True copy certified] A party or attorney who files a Judicial Council form certifies by filing the form that it is a true and correct copy of the form.

(Subd (j) amended and relettered effective January 1, 2003; adopted as subd (f) effective July 1, 1988; previosuly amended and relettered effective July 1, 1999.)

(k) Use of recycled paper] All forms and copies of forms filed with the court must use recycled paper as defined in rule 201(a)(2).

(Subd (k) adopted effective January 1, 2003.)

(*l*) [Hole punching] All forms presented for filing must be firmly bound at the top and must contain two pre-punched normal-sized holes, centered 2½ inches apart and 5/8 inch from the top of the form.

(Subd (l) adopted effective January 1, 2003.)

Rule 201.1 amended and renumbered effective January 1, 2003; adopted as rule 982 effective November 10, 1969; previously amended effective November 23, 1969, July 1, 1970, November 23, 1970, January 1, 1971, January 1, 1972, March 4, 1972, July 1, 1972, March 7, 1973, July 1, 1975, January 1, 1975, July 1, 1976, January 1, 1977, July 1, 1977, January 1, 1978, October 1, 1978, January 1, 1979, July 1, 1980, January 1, 1981, July 1, 1983, July 1, 1988, January 1, 1997, and July 1, 1999.

Rule 201.2. Judicial Council pleading forms

(a) [Pleading forms] The forms listed under the "Pleading" heading on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court (forms 982.1(1)–982.1(95S)) are approved by the Judicial Council as required by Code of Civil Procedure section 425.12.

(Subd (a) amended effective July 1, 1999; adopted effective January 1, 1982.)

(b) [Cause of action forms] Any approved cause of action form may be attached to any approved form of complaint or cross-complaint.

(Subd (b) adopted effective January 1, 1982.)

(c) [Other causes of action] A cause of action for which no form has been approved may be prepared in the format prescribed by rule 201and attached to any approved form of complaint or cross-complaint. Each paragraph within a cause of action must be numbered consecutively beginning with one. Each paragraph number must be preceded with one or more identifying letters derived from the title of the cause of action.

(Subd (c) amended effective January 1, 2003; adopted effective January 1, 1982.)

Rule 201.2 amended and renumbered effective January 1, 2003; adopted as rule 982.1 effective January 1, 1982; previously amended effective July 1, 1995, July 1, 1996, January 1, 1997, and July 1, 1999.

Rule 201.3. Local court forms

Local forms must comply with the following:

(1) Each form must be on paper measuring no more than 8 ½ by 11 inches and no less than 8 ½ by 5 inches.

(2) The court must make copies of its forms available in the clerk's office. A court may, as an alternative, make its forms available in a booklet from which photocopies of the forms may be made. The court may charge for either copies of forms or the booklet of forms.

(3) The court must assign to each form a unique designator consisting of numbers or letters, or both. The designator must be positioned on the form in the same manner as the designator on a Judicial Council form.

(4) The effective date of each form must be placed on the form in the same manner as the effective date on a Judicial Council form, and each form must state whether it is a "Mandatory Form" or an "Optional Form" in the lower left corner of the first page.

(5) Each court must make available a current list of forms adopted or approved by that court. The list must include, for each form, its name, number, effective date, and whether the form is mandatory or optional. There must be two versions of the list, one organized by form number and

one organized by form name. The court must modify its lists whenever it adopts, revises, or repeals any form.

(6) Each form must be designed so that no typing is required on it within 1 inch of the top or within ½ inch of the bottom.

(7) All forms and copies of forms made available by, or presented for filing to, the court must be reproduced on recycled paper as defined in rule 201(a)(2).

(8) All forms presented for filing must be firmly bound at the top and must contain two pre-punched, normal-sized holes centered 2½ inches apart and 5/8 inch from the top of the form.

(9) If a form is longer than one page, the form may be filed on sheets printed on only one side even if the original form has two printed sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse side must be rotated 180 degrees (printed head to foot).

Rule 201.3 adopted effective January 1, 2003.

Rule 201.4. Handwritten or handprinted forms

The clerk must not reject for filing or refuse to file any Judicial Council or local court form solely on the ground that it is completed in handwritten or handprinted characters or that the handwriting or handprinting is in a color other than blue-black or black.

Rule 201.4 adopted effective January 1, 2003.

Part 4. Filing and Service

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part 4, Filing and Service, adopted effective January 1, 2003.

Rule 201.5. Limitations on the filing of papers
Rule 201.7. Time for service of complaint, cross-complaint, and response
Rule 201.8. Case cover sheet required
Rule 201.9. Information About Alternative Dispute Resolution
Rule 202. Papers to be served on cross-defendant

Rule 202.5. Service of papers on the clerk when a party's address is unknown
Rule 202.7. List of parties
Rule 203. [Renumbered]
Rule 203.5. [Renumbered]

Rule 201.5. Limitations on the filing of papers

(a) [Papers not to be filed] The following papers, whether offered separately or as attachments to other documents, may not be filed unless they are offered as relevant to the determination of an issue in a law and motion proceeding or other hearing or are ordered filed for good cause:

(1) Subpoena;

(2) Subpoena duces tecum;

(3) Deposition notice, and response;

(4) Notice to consumer or employee, and objection;

(5) Notice of intention to record testimony by audio or video tape;

(6) Notice of intention to take an oral deposition by telephone, videoconference, or other remote electronic means;

(7) Agreement to set or extend time for deposition, agreement to extend time for response to discovery requests, and notice of these agreements;

(8) Interrogatories, and responses or objections to interrogatories;

(9) Demand for production or inspection of documents, things, and places, and responses or objections to demand;

(10) Request for admissions, and responses or objections to request;

(11) Agreement for physical and mental examinations;

(12) Demand for delivery of medical reports, and response;

(13) Demand for exchange of expert witnesses;

(14) Demand for production of discoverable reports and writings of expert witnesses;

(15) List of expert witnesses whose opinion a party intends to offer in evidence at trial and declaration;

(16) Statement that a party does not presently intend to offer the testimony of any expert witness;

(17) Declaration for additional discovery;

(18) Stipulation to enlarge the scope of number of discovery requests from that specified by statute, and notice of the stipulation;

(19) Demand for bill of particulars or an accounting, and response;

(20) Request for statement of damages, and response, unless it is accompanied by a request to enter default and is the notice of special and general damages;

(21) Notice of deposit of jury fees;

(22) Notice to produce party, agent, or tangible things before a court, and response; and

(23) Offer to compromise, unless accompanied by an original proof of acceptance and a written judgment for the court's signature and entry of judgment.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2001.)

(b) [Retaining originals of papers not filed] Unless the paper served is a response, the party who serves a paper listed in (a) must retain the original with the original proof of service affixed. The original of a response must be served, and it must be retained by the person upon whom it is served. All original papers must be retained until six months after final disposition of the cause, unless the court on motion of any party and for good cause shown orders the original papers preserved for a longer period.

(Subd (b) amended effective January 1, 2003.)

(c) [Papers defined] As used in this rule, papers include printed forms furnished by the clerk, but do not include notices filed and served by the clerk.

Rule 201.5 amended effective January 1, 2003; adopted effective July 1, 1987; previously amended effective January 1, 2001.

Drafter's Notes

1987—The council adopted new rules 201.5 (superior courts) and 501.5 (municipal and justice courts) to curtail the filing of routine and inessential papers. The rules specify the papers that may not be routinely filed. Filing will be permitted if ordered by the court for good cause or if relevant to an issue in a law-and-motion proceeding or other hearing.

2001—See note following rule 200.

Rule 201.7. Time for service of complaint, cross-complaint, and response

(a) [Applicability] This rule applies to the service of pleadings in civil cases except for unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law.

(b) [Service of complaint] The complaint must be served on all named defendants and proofs of service on those defendants must be filed with the court within 60 days after the filing of the complaint. When the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within 30 days after the filing of the amended complaint.

(c) [Service of cross-complaint] A cross-complaint against a party who has appeared in the action must be accompanied by proof of service of the cross-complaint at the time it is filed. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proofs of service on the new parties must be filed within 30 days of the filing of the cross-complaint.

(d) [Timing of responsive pleadings] The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint.

(e) [Modification of timing; application for order extending time] The court, on its own motion or on the application of a party, may extend or otherwise modify the times provided in (b)–(d). An application for a court order extending the time to serve a pleading must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing

why service has not been effected, documenting the efforts that have been made to effect service, and specifying the date by which service is proposed to be effected.

(f) [Failure to serve] Unless the court has granted an order extending the time to serve a complaint or cross-complaint, the failure to serve and file pleadings as required under this rule may result in an Order to Show Cause being issued as to why sanctions shall not be imposed.

(g) [Request for entry of default] If a responsive pleading is not served within the time limits specified in this rule and no extension of time has been granted, the plaintiff within 10 days after the time for service has elapsed must file a request for entry of default. Failure to timely file the request for the entry of default may result in an Order to Show Cause being issued as to why sanctions shall not be imposed.

(h) [Default judgment] When a default is entered, the party who requested the entry of default must obtain a default judgment against the defaulting party within 45 days after entry of default, unless the court has granted an extension of time. Failure to obtain entry of judgment against a defaulting party or to request an extension of time to apply for a default judgment may result in an Order to Show Cause being issued as to why sanctions shall not be imposed.

(i) [Order to Show Cause] When the court issues an Order to Show Cause under this rule, responsive papers to the Order to Show Cause must be filed and served no less than 5 calendar days before the hearing.

Rule 201.7 adopted effective July 1, 2002.

Drafter's Notes

2002—The California Rules of Court relating to civil case management were amended to reflect modern case management practices. Many obsolete provisions relating to case management are eliminated. The amended rules provide a comprehensive approach to the management of civil cases in the trial courts. The main features of the rules include:

New rule 201.7 prescribes the time for service of pleadings in civil cases. This rule will replace the various local rules on this subject.

The rules on differential case management are relocated and renumbered.

The main rule on case management (rule 212) is amended and requires case management review of all civil cases, except for certain expressly exempted types. The review must take place within 180 days after the filing of the complaint and will generally take place at a case management conference.

The time and manner of giving notice of the case management conference or review will be left to local rule. (Rule 212(b)(1).) Courts should have local rules or procedures for the scheduling of case management conferences and local forms for notices for these conferences, consistent with rule 212, available by July 1, 2002.

Although case management conferences will be held in most cases, a court may determine that conferences need not be held on a case-by-case basis and may notify the parties that they need not appear. (Rule 212 (b)(2).) Also, a court may adopt a local rule providing that in limited civil cases parties need not attend a conference unless ordered to do so by the court. (Rule 212(b)(3).) This exception for limited civil cases was included at the request of a few courts with large volumes of such cases. Any court desiring to exercise the option to exclude limited civil cases from the holding of case management conferences must adopt a local rule on the subject by July 1, 2002.

At the case management conference, counsel for each party and each self-represented person must appear personally unless a local court rule authorized by rule 298(c)(2) permits a telephonic appearance. Courts may wish to review their local rules to determine if telephonic appearances should be permitted, if their rules do not already authorize this.

Regardless whether or not the case review involves a case management conference, in each case a case management order must be issued. (Rules 212(b)(3) and 212(i).)

Parties will be required to submit a Case Management Statement (form CM-110) fifteen days before the date scheduled for the conference or review. (Rule 212(c). This standard statewide form is mandatory. It will replace all local case management, status conference, at-issue, or other similar statements previously used. The fifteen-day period is provided so that courts will have sufficient time to review all statements submitted and, if appropriate, issue orders and notify parties that they need not appear in particular cases.

New rule 214 clarifies the management of short cause cases.

The Judicial Council has directed the Civil and Small Claims Advisory Committee to review the new case management processes after the rules have been in effect for a year. Thus, every court will have an opportunity to provide comments and suggestions on the rules and form in the future.

Rule 201.8. Case cover sheet required

(a) [Cover sheet required] The first paper filed in an action or proceeding must be accompanied by a case cover sheet as required in (b). The cover sheet must be on a form prescribed by the Judicial Council and must be filed in addition to any cover sheet required by local court rule. If the plaintiff indicates on the cover sheet that the case is complex under rule 1800 et seq., the plaintiff must serve a copy of the cover sheet with the complaint. In all other cases, the plaintiff is not required to serve the cover sheet. The cover sheet is used for statistical purposes and may affect the assignment of a complex case.

(Subd (a) amended effective January 1, 2002; previously amended January 1, 2000.)

(b) [List of cover sheets]

(1) *Civil Case Cover Sheet* (form CM-010) must be filed in each civil action or proceeding, except those filed in small claims court or filed under the Probate Code, Family Law Code, or Welfare and Institutions Code.

(2) [**Note:** Case cover sheets will be added for use in additional areas of the law as the data collection program expands.]

(Subd (b) amended effective July 1, 2003; previously amended effective July 1, 2002.)

(c) [Failure to provide cover sheet] If a party that is required to provide a cover sheet under this rule or a similar local rule fails to do so or provides a defective or incomplete cover sheet at the time the party's first paper is submitted for filing, the clerk of the court must file the paper. Failure of a party or a party's counsel to file a cover sheet as required by this rule may subject that party, its counsel, or both, to sanctions under rule 227.

(Subd (c) adopted effective January 1, 2002.)

Rule 201.8 amended effective July 1, 2003; adopted as rule 982.2 effective July 1, 1996; previously amended January 1, 2000 and January 1, 2002; previously renumbered and amended effective July 1, 2002.

Drafter's Notes
1996—The council adopted form 982.2(b)(1) (Civil Case Cover Sheet) that mandates the use of a Civil Case Cover Sheet in all new civil filings.

2000—Amended rule 982.2 and revised *Civil Case Cover Sheet* (Form 982.2(b)(1)) implement rules 1810 through 1812 and allow a party to designate an action as a complex case.

January 2002—The amended rule specifies that, if a party fails to file a *Civil Case Cover Sheet* with its first papers, the clerk must file the papers, and that the failure of a party or the party's counsel to file a cover sheet may subject that party, its counsel, or both, to sanctions.

July 2002—See note following rule 201.7.

Rule 201.9. Information About Alternative Dispute Resolution

(a) [Court to provide information package] Each court must make available to the plaintiff, at the time of filing of the complaint, an Alternative Dispute Resolution (ADR) information package that includes, at a minimum, all of the following:

(1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes. The Administrative Office of the Courts has prepared model language that the courts may use to provide this information.

(2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.

(3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.

(4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(Subd (a) amended effective July 1, 2002.)

(b) [Court may make package available on Web site] A court may make the ADR information package available on its Web site as long as paper copies are also made available in the clerk's office.

(Subd (b) adopted effective July 1, 2002.)

(c) [Plaintiff to serve information package] The plaintiff must serve a copy of the ADR information package on each defendant along with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action along with the cross-complaint.

(Subd (c) amended and relettered effective July 1, 2002; adopted as subd (b) effective January 1, 2001.)

Rule 201.9 renumbered and amended effective July 1, 2002; adopted as rule 1590.1 effective January 1, 2001.

Drafter's Notes
2001—See note following rule 1580.

2002—See note following rule 201.7.

Rule 202. Papers to be served on cross-defendant

A cross-complainant must serve a copy of the complaint or, if it has been amended, of the most recently amended complaint and any answers thereto on cross-defendants who have not previously appeared.

Rule 202 amended effective January 1, 2003; adopted effective January 1, 1985.

Former Rule
Former rule 202, similar to present rules 313(a), 325(b), 325(d), and 325(e), was adopted January 1, 1949; amended effective July 1, 1983; and repealed effective July 1, 1983.

Drafter's Notes
1984—The council adopted new rules 202 and 502 which require that a cross-complainant serve on each new cross-defendant a copy of the most recently amended complaint and any answers. These papers must be served in addition to the service of the summons and cross-complaint currently required by statute. The papers need not be served on any cross-defendant who has already appeared in the action.

Rule 202.5. Service of papers on the clerk when a party's address is unknown

(a) [Service of papers] When service is made under Code of Civil Procedure section 1011(b) and a party's residence address is unknown, the notice or papers delivered to the clerk, or to the judge if there is no clerk, must be enclosed in an envelope addressed to the party in care of the clerk or the judge.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) [Information on the envelope] The back of the envelope delivered under (a) must bear the following information:

"Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown."

[Name of party whose residence address is unknown]

[Case name and number]

(Subd (b) amended and lettered effective January 1, 2003.)

Rule 202.5 amended effective January 1, 2003; adopted effective July 1, 1997.

Rule 202.7. List of parties

If more than two parties have appeared in a case and are represented by different counsel, the plaintiff named first in the complaint must (1) maintain a current list of the parties and the address for service of notice on each party, and (2) furnish a copy of the list on request to any party or the court. Each party must (1) furnish the first-named plaintiff with its current address for service of notice when it first appears in the action; (2) furnish the first-named plaintiff with any changes in its address for service of notice; and (3) if it serves an order, notice, or pleading on a party who has not yet appeared in the action, serve a copy of the list at the same time as the order, notice, or pleading is served.

Rule 202.7 amended and renumbered effective January 1, 2003; adopted as rule 387 effective July 1, 1984.

Rule 203. [Renumbered 2003]

Rule 203.5. [Renumbered 2003]

CHAPTER 2. Civil Trial Court Management Rules

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 2, Civil Trial Court Management Rules, adopted effective January 1, 1985.

Drafter's Notes

1984—On the recommendation of the Judicial Council's Advisory Committee on Calendar and Caseflow Management, the council repealed rules 206-227, 244.5, 245, and 246-248, and sections 1, 3, 4, and 11 of the Standards of Judicial Administration. In their place, the council added new rules 204-214, 216-227, and 374, affecting the role and duty of court managers, and the management of civil caseflow and trial calendars in the superior court; amended rule 375, concerning motions for trial continuances; and adopted new section 11 of the Standards of Judicial Administration, establishing criteria for calendar management review of courts.

The new rules and standard affect superior court case management procedures in numerous respects. These include:

(a) specifying the administrative duties of the presiding judge, trial judges, and court executive officer (rules 204-207);

(b) eliminating pretrial conferences except as provided under a local rule (rule 212);

(c) adding information about mandatory arbitration to the at-issue memorandum (rule 209);

(d) creating an arbitration status conference in courts having both more than three judges and a judicial conference arbitration program (rule 211);

(e) providing for case assignments to a single judge for all or limited purposes (rule 213);

(f) eliminating the certificate of readiness;

(g) requiring, in courts with more than three judges, a mandatory settlement conference for all long cause matters within three weeks before trial (rule 222);

(h) requiring a court order to remove a case from the civil active list (rule 223);

(i) requiring the parties to notify the court in writing, or orally when necessary, of the resolution of a civil active case (rule 225);

(j) disfavoring trial continuances unless good cause is shown (rule 375);

(k) providing sanctions for violation of rules of court, local rules, or court orders (rule 227);

(*l*) establishing a standard of judicial administration for the calendar management review of courts whose calendar conditions meet certain criteria (section 11).

PART 1. Management Duties

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 2, Civil Trial Court Management Rules—Part 1, Management Duties, adopted effective January 1, 1985.

Rule 204. [Repealed 2001]

Rule 204 repealed effective January 1, 2001; previously amended January 1, 1997, and September 14, 1999; adopted effective January 1, 1985. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Former Rule
Former rule 204, similar to present rule 309, was adopted effective April 1, 1962; amended effective July 1, 1963, September 17, 1965, January 1, 1978, and January 1, 1979; and repealed effective January 1, 1984.

Rule 204.1. Case management and calendaring system

Each court must adopt a case management and calendaring system for general civil cases that will advance the goals set forth in section 2 of the California Standards of Judicial Administration.

Rule 204.1 adopted effective July 1, 2002.

Rule 204.2. Internal management procedures

Each trial court must:

(1) maintain a calendar and caseflow management system which will ensure that a sufficient number of cases are set for trial, based on the court's experience, so that all departments will be occupied with judicial business;

(2) adopt for judges and court personnel an internal operations manual of policies and procedures necessary for the efficient operation and management of the court;

(3) maintain and periodically review for accuracy written local court procedures, policies, and operating practices not contained in local rules for quick, accurate, and complete reference; and

(4) assure that calendaring functions are performed as directed by the court and that personnel rendering direct and immediate service to the court are within its administrative control to the maximum extent consistent with the existing organizational structures.

Rule 204.2 renumbered and amended effective July 1, 2002; adopted as rule 208 effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

Rule 205. [Repealed 2001]

Rule 205 repealed effective January 1, 2001; previously amended effective January 1, 1989, January 1, 1990, January 1, 1991, July 1, 1991, January 1, 1996, July 1, 1998, November 20, 1998, and April 1, 1999; adopted effective January 1, 1985. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Former Rule
Former rule 205, similar to present rule 327(b), was adopted effective January 1, 1949, and repealed effective January 1, 1984.

Drafter's Notes
1984—Rule 205 (formerly rule 244.5) is amended to impose on the presiding judge or court administrator the duty of supervising transcript preparation and taking necessary administrative action to balance court reporters' workloads.

1988—The council deleted the master calendar requirement in civil cases and gave the superior courts discretion to adopt a calendaring system that will advance the goals of caseflow management and delay reduction (rule 224). To conform to the change in rule 224, technical amendments were made to rule 205.

1989—The council adopted new section 25 of the Standards of Judicial Administration to establish standards for judicial education. It also amended rules 205 and 532.5 to refer to section 25 in the list of duties of presiding judges of superior and municipal courts.

1990—The council amended rules 78, 205, and 532.5 to clarify the duties of presiding judges to report both the failure of judges to perform judicial duties and their absences caused by disabilities. The council also voted to defer consideration of the proposal to reduce the time necessary to trigger the reporting duty until a judicial leave policy is drafted.

1991—The council (1) amended rules 205, 207, and 532.5 to require trial courts to (a) adopt court personnel plans after considering new section 27 of the Standards of Judicial Administration and (b) forward each personnel plan and affirmative action report to the Administrative Office of the Courts by March 1, 1992, with an annual update thereafter; (2) amended rule 206 and adopted rule 532.7 to require a judge to comply with the court's personnel plan; (3) adopted section 27(a)-(c) of the Standards of Judicial Administration to suggest that courts should consider including certain elements in a court personnel plan to reduce the opportunity for gender bias in court administration; and (4) adopted section 27(d) of the Standards of Judicial Administration to suggest that superior courts should consider including discipline and discharge procedure in a court personnel plan.

1996—These rules [rules 205 and 532.5] were amended to require a presiding judge to forward a confidential evaluation form annually on each assigned retired judge serving in the presiding judge's court. The rule also obligates the presiding judge to direct all complaints against retired judges serving on assignment to the Administrative Director of the Courts.

1998—In response to the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233), the council adopted five new rules on court management effective July 1, 1998. These new rules will be incorporated into a new title of the California Rules of Court covering judicial administration (Title Six). In addition, rules 205, 207, and 532.5, regarding the duties of presiding judges and court executives in preparing personnel plans, were amended to conform to the new rules and section 27 of the Standards of Judicial Administration, regarding trial court personnel plans, was repealed, effective July 1, 1998.

1999—New section 39 of the Standards of Judicial Administration and amended rules 205, 207, and 532.5, effective April 1, 1999, encourage judges to provide leadership for and personally engage in community collaboration and outreach activities as part of their judicial functions.

Rule 205.1. [Repealed 2001]

Rule 205.1 repealed effective January 1, 2001; adopted effective January 1, 1989. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Drafter's Notes
1988—New rules 205.1, 532.6, and 825 define submission of a cause in the trial courts and impose a duty upon presiding and sole judges of trial courts to monitor and supervise causes under submission.

Rule 206. [Repealed 2001]

Rule 206 repealed effective January 1, 2001; previously amended effective July 1, 1991; adopted effective January 1, 1985. See rule 6.602, 6.603, 6.605, 6.608, and 6.610.

Former Rule
Former rule 206, similar to present rule 209, was adopted effective January 1, 1949; amended effective January 1, 1957, January 1, 1963, July 1, 1964, September 1, 1967, January 1, 1969, and January 1, 1983; and repealed effective January 1, 1985.

Drafter's Notes
1991—The council (1) amended rules 205, 207, and 532.5 to require trial courts to (a) adopt court personnel plans after considering new section 27 of the Standards of Judicial Administration and (b) forward each personnel plan and affirmative action report to the Administrative Office of the Courts by March 1, 1992, with an annual update thereafter; (2) amended rule 206 and adopted rule 532.7 to require a judge to comply with the court's personnel plan; (3) adopted section 27(a)-(c) of the Standards of Judicial Administration to suggest that courts should consider including certain elements in a court personnel plan to reduce the opportunity for gender bias in court administration; and (4) adopted section 27(d) of the Standards of Judicial Administration to suggest that superior courts should consider including discipline and discharge procedure in a court personnel plan.

Rule 207. [Repealed 2001]

Rule 207 repealed effective January 1, 2001; previously amended effective July 1, 1998, July 1, 1991, and April 1, 1999; adopted effective January 1, 1985. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Former Rule
Former rule 207, similar to present rule 210, was adopted effective January 1, 1949; amended effective September 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
1991—The council (1) amended rules 205, 207, and 532.5 to require trial courts to (a) adopt court personnel plans after considering new section 27 of the Standards of Judicial Administration and (b) forward each personnel plan and affirmative action report to the Administrative Office of the Courts by March 1, 1992, with an annual update thereafter; (2) amended rule 206 and adopted rule 532.7 to require a judge to comply with the court's personnel plan; (3) adopted section 27(a)-(c) of the Standards of Judicial Administration to suggest that courts should consider including certain elements in a court personnel plan to reduce the opportunity for gender bias in court administration; and (4) adopted section 27(d) of the Standards of Judicial Administration to suggest that superior courts should consider including discipline and discharge procedure in a court personnel plan.

1998—In response to the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233), the council adopted five new rules on court management effective July 1, 1998. These new rules will be incorporated into a new title of the California Rules of Court covering judicial administration (Title Six). In addition, rules 205, 207, and 532.5, regarding the duties of presiding judges and court executives in preparing personnel plans, were amended to conform to the new rules and section 27 of the Standards of Judicial Administration, regarding trial court personnel plans, was repealed, effective July 1, 1998.

1999—New section 39 of the Standards of Judicial Administration and amended rules 205, 207, and 532.5, effective April 1, 1999, encourage judges to provide leadership for and personally engage in community collaboration and outreach activities as part of their judicial functions.

Rule 207.1. [Repealed 1985]

Adopted effective September 1, 1967; repealed effective January 1, 1985. See rule 216.

Rule 207.5. [Repealed 1985]

Adopted effective January 1, 1963; amended effective September 1, 1967; repealed effective January 1, 1985. See rule 222.

Rule 208. [Renumbered 2002]

Rule 208 renumbered rule 204.2; adopted effective January 1, 1985.

Former Rule
Former rule 208, similar to present rule 212, was adopted effective January 1, 1949; amended effective January 1, 1957, and September 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

PART 2. Differential Case Management

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 2, Civil Trial Court Management Rules—Part 2, Differential Case Management; adopted effective July 1, 2002.

Rule 205. Authority

The rules in this chapter implement section 68603(c) of the Government Code under the Trial Court Delay Reduction Act of 1990.

Rule 205 renumbered and amended effective July 1, 2002; adopted as rule 2101 effective July 1, 1991.

Drafter's Notes
2002—See note following rule 201.7.

Rule 206. Local court rules

Each court must adopt local rules on differential case management as provided in this chapter consistent with rule 212 of the California Rules of Court and the statement of general principles set forth in section 2 of the California Standards of Judicial Administration.

Rule 206 renumbered and amended effective July 1, 2002; adopted as rule 2102 effective July 1, 1991; previously amended effective January 1, 1994, and January 1, 2000.

Drafter's Notes
1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

2000—Rules 1501.1, 2102, and 2105, the coordination and differential case management rules, were amended to make technical changes and to conform to the new rules on complex litigation.

2002—See note following rule 201.7.

Rule 207. Application; exceptions

(a) [Application] The rules in this chapter apply to all general civil cases filed in the trial courts.

(Subd (a) amended effective July 1, 2002; previously amended effective January 1, 1994.)

(b) [General civil case] As used in this chapter, "general civil case" means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act; freedom from parental custody and control proceedings; and adoption proceedings), juvenile court proceedings, small claims proceedings, unlawful detainer proceedings, and "other civil petitions" as defined by the Judicial Branch Statistical Information Data Collection Standards.

(Subd (b) amended effective July 1, 2002.)

(c) [Uninsured motorist] To allow for arbitration of the plaintiff's claim, the rules in this chapter do not apply to a case designated by the court as "uninsured motorist" until 180 days after the designation.

(Subd (c) amended effective July 1, 2002.)

(d) [Coordination] The rules in this chapter do not apply to any case included in a petition for coordination. If the petition is granted, the coordination trial judge may establish a case progression plan for the cases, which may be within one of the three case management plans or, after appropriate findings, within the exceptional case category.

(Subd (d) amended effective July 1, 2002.)

Rule 207 renumbered and amended effective July 1, 2002; adopted as rule 2103 effective July 1, 1991; previously amended effective January 1, 1994.

Drafter's Notes

1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

2002—See note following rule 201.7.

Rule 208. Delay reduction goals

(a) [Case management goals] The rules in this chapter are adopted to advance the goals of section 68607 of the Government Code and section 2 of the California Standards of Judicial Administration Recommended by the Judicial Council within the time limits specified in section 68616 of the Government Code.

(Subd (a) amended effective July 1, 2002.)

(b) [Case disposition time goals] The goal of the court is to manage general civil cases from filing to disposition as provided under sections 2.1 and 2.3 of the California Standards of Judicial Administration.

(Subd (b) amended effective July 1, 2002; previously amended effective January 1, 1994.)

(c) [Judges' responsibility] It is the responsibility of judges to achieve a just and effective resolution of each general civil case through active management and supervision of the pace of litigation from the date of filing to disposition.

(Subd (c) amended effective July 1, 2002.)

Rule 208 renumbered and amended effective July 1, 2002; adopted as rule 2104 effective July 1, 1991; previously amended effective January 1, 1994.

Drafter's Notes
2002—See note following rule 201.7.

Rule 209. Differentiation of cases to achieve goals

(a) [Evaluation and assignment] The court must evaluate each case as provided in rule 210 under procedures adopted by local court rules. After evaluation, the court must:

(1) Assign each case to one of the three case management plans listed in (b); or

(2) Exempt the case under (d) from the case disposition time goals specified in rule 208(b); or

(3) Assign the case under (e) to the local case management plan.

(Subd (a) amended effective July 1, 2002.)

(b) [Case management plans] Time of disposition under the following case management plans is, from the date of filing:

(1) Plan 1: 12 months;

(2) Plan 2: 18 months;

(3) Plan 3: 24 months.

(Subd (b) amended effective July 1, 2002.)

(c) [Case management Plan 1] The court may by local rule presume that a case is subject to the disposition goal under case management Plan 1 when the case is filed or as otherwise provided by the court. The court may modify the assigned case management plan at any time for good cause shown.

(Subd (c) amended effective July 1, 2002; previously amended effective January 1, 1994.)

(d) [Exceptional cases] The court may in the interest of justice exempt a general civil case from the case disposition time goals if it finds the case involves exceptional circumstances that will prevent the court and the parties from meeting the goals and deadlines imposed by the program. In making the determination, the court is guided by rules 210 and 1800.

If the court exempts the case from the case disposition time goals, the court must establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

(Subd (d) amended effective July 1, 2002; previously amended effective January 1, 2000.)

(e) [Local case management plan] The court may by local rule adopt a case management plan that establishes a goal for disposing of appropriate cases within six to nine months after filing. The plan must establish a procedure to identify the cases to be assigned to the plan. The plan must be used only for uncomplicated cases amenable to early disposition that do not need a case management conference or review or similar event to guide the case to early resolution.

(Subd (e) amended effective July 1, 2002; previously amended effective January 1, 1994.)

Rule 209 renumbered and amended effective July 1, 2002; adopted as rule 2105 effective July 1, 1991; previously amended effective January 1, 1994, and January 1, 2000.

Drafter's Notes
1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

2000—Rules 1501.1, 2102, and 2105, the coordination and differential case management rules, were amended to make technical changes and to conform to the new rules on complex litigation.

2002—See note following rule 201.7.

Rule 210. Case evaluation factors

In applying rule 209, the court must estimate the maximum time that will reasonably be required to dispose of each case in a just and effective manner. The court must consider the following factors and any other information the court deems relevant, understanding that no one factor or set of factors will be controlling and that cases may have unique characteristics incapable of precise definition:

(1) Type and subject matter of the action;

(2) Number of causes of action or affirmative defenses alleged;

(3) Number of parties with separate interests;

(4) Number of cross-complaints and the subject matter;

(5) Complexity of issues, including issues of first impression;

(6) Difficulty in identifying, locating, and serving parties;

(7) Nature and extent of discovery anticipated;

(8) Number and location of percipient and expert witnesses;

(9) Estimated length of trial;

(10) Whether some or all issues can be arbitrated;

(11) Statutory priority for the issues;

(12) Likelihood of review by writ or appeal;

(13) Amount in controversy and the type of remedy sought, including measures of damages;

(14) Pendency of other actions or proceedings which may affect the case;

(15) Nature and extent of law and motion proceedings anticipated;

(16) Nature and extent of the injuries and damages;

(17) Pendency of underinsured claims; and

(18) Any other factor that would affect the time for disposition of the case.

Rule 210 renumbered and amended effective July 1, 2002; adopted as rule 2106 effective July 1, 1991.

Drafter's Notes
2002—See note following rule 201.7.

PART 3. Case Management

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 2, Civil Trial Court Management Rules—Part 3, Case Management; renumbered and amended effective July 1, 2002; adopted as Part 2 effective January 1, 1985.

Rule 209. [Repealed 2002]

Former Rules
Former rule 209, relating to civil cases at issue, was adopted effective January 1, 1985; amended effective January 1, 1991, January 1, 1995, and January 1, 2001; and repealed effective July 1, 2002.

Former rule 209, relating to setting for pretrial conference, was adopted effective January 1, 1957; amended effective January 1, 1963, and September 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: (1) rule 209 concerning civil cases at issue, to delete the requirement for filing of an at-issue memorandum in cases subject to the Trial Court Delay Reduction Act; . . .

2001—See note following rule 200.

2002—See note following rule 201.7.

Rule 210. [Repealed 2002]

Rule 210 repealed effective July 1, 2002; adopted effective January 1, 1985; previously amended effective January 1, 1991, and January 1, 1995.

Former Rules
Former rule 210, relating to civil active list, was adopted effective January 1, 1985; amended effective January 1, 1991, and January 1, 1995; and repealed effective July 1, 2002.

Former rule 210, relating to duties of attorneys in respect to pretrial conferences, was adopted effective January 1, 1957; amended effective July 1, 1958, and September 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (2) rule 210 concerning the civil active list, to delete the requirement for maintaining a civil active list for cases subject to the Trial Court Delay Reduction Act, as inconsistent with delay reduction principles; . . .

2002—See note following rule 201.7.

Rule 211. [Repealed 2002]

Rule 211 repealed effective July 1, 2002; adopted effective January 1, 1985.

Former Rules
Former rule 211, relating to arbitration status conference, was adopted effective January 1, 1985; and repealed effective July 1, 2002.

Former rule 211, relating to conduct of, and limitations on, pretrial conference, was adopted effective January 1, 1957; amended effective July 1, 1958, and September 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

Rule 212. Case management conference; meet-and-confer requirement; and case management order

(a) [Initial case management review] In every general civil case except complex cases and cases exempted under rules 207(c)–(d), 209(d)–(e), and 214, the court must review the case no later than 180 days after the filing of the initial complaint.

(Subd (a) adopted effective July 1, 2002.)

(b) [Case management conference]

(1) *(Case management conference)* In each case, the court must set a case management conference to review the case. Notice of the date of the case management conference must be given to all parties no later than 45 days before the conference, unless otherwise ordered by the court. The court may provide by local rule for the time and manner of giving notice to the parties. At the conference, counsel for each party and each self-represented party must appear personally or, if permitted under rule 298(c)(2), by telephone, must be familiar with the case, and must be prepared to discuss and commit to the party's position on the issues listed in (e)–(f).

(2) *(Case management order without appearance)* If, based on its review of the written submissions of the parties and such other information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required.

(3) *(Option to excuse attendance at conferences in limited civil cases)* In all general civil cases except those exempted under (a), the court must review the case and issue a case management order under this rule, but by local rule the court may provide that counsel and self-represented parties are not to attend a case management conference in limited civil cases, unless ordered to do so by the court.

(Subd (b) relettered and amended effective July 1, 2002; adopted as subd (a) effective January 1, 1985.)

(c) [Special order or request for a case management conference] The court on its own motion may order, or a party or parties may request, that a case management conference be held at any time.

(Subd (c) adopted effective July 1, 2002.)

(d) [Arbitration determination] In courts having a judicial arbitration program under Code of Civil Procedure section 1141.11, the court at the time of the case management conference or review must determine if the case is suitable for judicial arbitration.

(Subd (d) adopted effective July 1, 2002.)

(e) [Subjects to be considered at the case management conference] In any case management conference or review under this rule, the parties must address, if applicable, and the court may take appropriate action with respect to, the following:

(1) Whether there are any related cases;

(2) Whether all parties named in the complaint or cross-complaint have been served, have appeared, or have been dismissed;

(3) Whether any additional parties may be added or the pleadings may be amended;

(4) Whether, if the case is a limited civil case, the economic litigation procedures under Code of Civil Procedure section 90 et seq. will apply to it or the party intends to bring a motion to exempt the case from these procedures;

(5) Whether any other matters (e.g., the bankruptcy of a party) may affect the court's jurisdiction or processing of the case;

(6) Whether the parties have stipulated to, or the case should be referred to, judicial arbitration or any other form of Alternative Dispute Resolution (ADR) and, if so, the date by which the ADR must be completed;

(7) Whether an early settlement conference should be scheduled and, if so, on what date;

(8) Whether discovery has been completed and, if not, the date by which it will be completed;

(9) What discovery issues are anticipated;

(10) Whether the case should be bifurcated;

(11) Whether there are any cross-complaints that are not ready to be set for trial and, if so, whether they should be severed;

(12) Whether the case is entitled to any statutory preference and, if so, the statute granting the preference;

(13) Whether a jury trial is demanded, and, if so, the identity of each party requesting a jury trial;

(14) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;

(15) The estimated length of trial;

(16) The nature of the injuries;

(17) The amount of damages, including any special or punitive damages;

(18) Any additional relief sought;

(19) Whether there are any insurance coverage issues that may affect the resolution of the case; and

(20) Any other matters that should be considered by the court or addressed in its case management order.

(Subd (e) adopted effective July 1, 2002.)

(f) [Meet-and-confer requirement] Unless the court orders another time period, no later than 30 calendar days before the date set for the case management conference, the parties must meet and confer, in person or by telephone, to consider each of the issues identified in (e) and, in addition, to consider the following:

(1) Resolving any discovery disputes and setting a discovery schedule;

(2) Identifying and, if possible, informally resolving any anticipated motions;

(3) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;

(4) Identifying the facts and issues in the case that are in dispute;

(5) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;

(6) Possible settlement; and

(7) Other relevant matters.

(Subd (f) relettered and amended effective July 1, 2002; adopted as subd (b) effective July 1, 1999; previously amended effective January 1, 2000.)

(g) [Case management statement]

(1) *(Timing of statement)* No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement and serve it on all other parties in the case.

(2) *(Contents of statement)* Parties must use the mandatory *Case Management Statement* (form CM-110). All applicable items on the form must be completed. In lieu of each party filing a separate case management statement, any two or more parties may file a joint statement under this rule.

(Subd (g) relettered and amended effective July 1, 2002; adopted as subd (c) effective July 1, 1999; previously amended effective January 1, 2001.)

(h) [Stipulation to Alternative Dispute Resolution] If all parties agree to use an Alternative Dispute Resolution (ADR) process, they must jointly complete the ADR stipulation form provided for under rule 201.9 and file it with the court.

(Subd (h) adopted effective July 1, 2002.)

(i) [Case management order] The case management conference must be conducted in the manner provided by local rule. The court must enter a case management order setting a schedule for subsequent proceedings and otherwise providing for the management of the case. The order should include such provisions as may be appropriate, including:

(1) Referral of the case to judicial arbitration or some other form of Alternative Dispute Resolution;

(2) A date for completion of the arbitration process or other form of Alternative Dispute Resolution process if the case has been referred to such a process;

(3) In the event that a trial date has not previously been set, a date certain for trial if the case is ready to be set for trial;

(4) Whether the trial will be a jury trial or a nonjury trial;

(5) The identity of each party demanding a jury trial;

(6) The estimated length of trial;

(7) Whether all parties necessary to the disposition of the case have been served or have appeared;

(8) The dismissal or severance of unserved or not appearing defendants from the action;

(9) The names and addresses of the attorneys who will try the case;

(10) The date, time, and place for a mandatory settlement conference as provided in rule 222;

(11) The date, time, and place for the final case management conference before trial if such a conference is required by the court or the judge assigned to the case;

(12) The date, time, and place of any further case management conferences or review; and

(13) Any additional orders that may be appropriate, including orders on matters listed in (e) and (f).

(Subd (i) relettered and amended effective July 1, 2002; adopted as subd (b) effective January 1, 1985; previously relettered as subd (d) effective July 1, 1999.)

(j) [Case management order controls] The order issued after the case management conference or review controls the subsequent course of the action or proceeding unless it is modified by a subsequent order.

(Subd (j) adopted effective July 1, 2002.)

Rule 212 amended effective July 1, 2002; adopted effective January 1, 1985; previously amended effective January 1, 1995, July 1, 1999, January 1, 2000, and January 1, 2001.

Former Rule
Former rule 212, relating to pretrial conference, was adopted effective January 1, 1957; amended effective January 1, 1967; and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (3) rule 212 concerning cases in which a pretrial conference may be held, to refer to the conference as a "case management" conference and to delete the requirement that it apply only to long causes; . . .

1999—Amendments to rule 212 and new rule 512 require parties in cases in which case management conferences are held to meet no later than 30 days before the first case management conference to discuss issues relating to the management of the case. The rules also require parties to file a case management conference statement no later than 5 days before the first case management conference.

2000—Amended rule 212 allows the court to change the 30-day meet-and-confer requirement in a complex case.

2001—Rules 212, 1580, 1580.1, 1580.2, 1580.3, 1590, 1590.1, 1590.2, and 1590.3 and section 32.5 of the Standards of Judicial Administration (1) encourage courts to implement high-quality court-related ADR programs for civil cases and (2) ensure that civil litigants receive information about available ADR processes and are encouraged to consider voluntarily participating in ADR.

2002—See note following rule 201.7.

Rule 213. Assignment to one judge for all or limited purposes

The presiding judge may, on the noticed motion of a party or on the court's motion, order the assignment of any case to one judge for all or such limited purposes as will promote the efficient administration of justice.

Rule 213 amended effective July 1, 2002; adopted effective January 1, 1985.

Former Rule
Former rule 213, relating to settlement discussion, was adopted effective January 1, 1957, and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

Rule 214. Management of short cause cases

(a) [Short cause cases] A short cause case is a civil case in which the time estimated for trial by all parties or the court is five hours or less. All other civil cases are long cause cases.

(b) [Exemption for short cause case and setting of case for trial] The court may order, upon the stipulation of all parties or the court's own motion, that a case is a short cause case exempted from the requirements of case management review and set the case for trial.

(c) [Mistrial] If a short cause case is not completely tried within five hours, the judge may declare a mistrial or, in the judge's discretion, may complete the trial. In the event of a mistrial, the case will be treated as a long cause case and must promptly be set either for a new trial or for a case management conference.

Rule 214 adopted effective July 1, 2002.

Former Rules
Former rule 214 adopted effective January 1, 1985; and repealed effective January 1, 2001; See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Former rule 214, relating to the pretrial conference order, was adopted effective January 1, 1957, and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

Rule 215. [Repealed 2002]

Former Rules
Former rule 215, relating to date certain for trial, was adopted effective January 1, 1985; amended effective January 1, 1994; and repealed effective July 1, 2002.

Former rule 215, relating to service and filing of pretrial conference order, was adopted effective January 1, 1957; amended effective September 1, 1967, and July 1, 1968; and repealed effective January 1, 1985.

Drafter's Notes
1984—The council added new rule 215, requiring that in counties with fewer than 5,000,000 residents, every case shall proceed to trial on the date set or, if necessary, within the next four days.

1994—The Presiding Judges Standing Advisory Committee proposed this change to make rule 215 (Date Certain for Trial) applicable to all superior courts, including Los Angeles.

2002—See note following rule 201.7.

PART 3. [Repealed 2002]

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 2, Civil Trial Court Management Rules—Part 3, Calendar Management; repealed effective July 1, 2002; adopted effective January 1, 1985.

Rule 216. [Repealed 2002]
Rule 217. [Repealed 2002]
Rule 218. [Repealed 2002]
Rule 219. [Repealed 2002]
Rule 220. [Repealed 2002]
Rule 220.1. [Repealed 1985]
Rule 220.2. [Repealed 1985]
Rule 220.3. [Repealed 1985]
Rule 220.4. [Repealed 1985]
Rule 221. [Repealed 2002]

Rule 216. [Repealed 2002]

Former Rules
Former rule 216, relating to setting short causes for trial, was adopted effective January 1, 1985, amended effective January 1, 1995, and repealed effective July 1, 2002.

Former rule 216, relating to effect of pretrial conference order, was adopted effective January 1, 1957, and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (4) rule 216 concerning setting short causes for trial, to permit assignment of a time and place for trial after filing of an at-issue memorandum or order deeming the case to be at issue in cases not subject to the Trial Court Delay Reduction Act; . . .

2002—See note following rule 201.7.

Rule 217. [Repealed 2002]

Former Rules
Former rule 217, relating to setting for trial, was adopted effective January 1, 1985; amended effective January 1, 1995; and repealed effective July 1, 2002.

Former rule 217, similar to present rule 227, was adopted effective January 1, 1957; amended effective January 1, 1977; and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (5) rule 217 concerning setting for trial in courts having 10 or more judges, to delete the trial setting conference requirement except for cases not subject to the Trial Court Delay Reduction Act, and to delete the required 60-day minimum notice of trial setting conference for those cases; . . .

2002—See note following rule 201.7.

Rule 218. [Repealed 2002]

Former Rules
Former rule 218, relating to setting for trial at a trial setting conference, was adopted effective January 1, 1985; amended effective January 1, 1986, January 1, 1995, and July 1, 1995; and repealed effective July 1, 2002.

Former rule 218, relating to review of pretrial conference order, was adopted effective January 1, 1957, and repealed effective January 1, 1985.

Drafter's Notes
1985—See note following rule 373.

January 1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (6) rule 218 concerning setting for trial at a trial setting conference, to provide that a case not subject to the Trial Court Delay Reduction Act shall be set for trial not less than 30 days after the conference, rather than within 30 to 90 days after the conference; . . .

July 1995—On the recommendation of the Appellate Standing Advisory Committee, the council amended:

(1) rule 218 to reinstate a cross-reference to rule 211(c)(3), pending amendment of Code of Civil Procedure section 11411.16 on arbitration determination procedure; . . .

2002—See note following rule 201.7.

Rule 219. [Repealed 2002]

Former Rules
Former rule 219, relating to duties of attorneys in respect to trial setting conferences, was adopted effective January 1, 1985, and repealed effective July 1, 2002.

Former rule 219, relating to setting for trial after pretrial conference, was adopted effective January 1, 1957, as rule 220; amended effective July 1, 1958, and July 1, 1965; renumbered and amended effective July 1, 1958; and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

Rule 220. [Repealed 2002]

Former Rules
Former rule 220, relating to conduct of trial setting conferences, was adopted effective Janaury 1, 1985; amended effective January 1, 1991; and repealed effective July 1, 2002.

Former rule 220, similar to present rule 374, was adopted effective September 1, 1967, and repealed effective January 1, 1985.

Original rule 220 was adopted January 1, 1957; amended effective July 1, 1958, and July 1, 1965; and renumbered rule 219 and amended, effective September 1, 1967.

Rule 220.1. [Repealed 1985]

Adopted effective September 1, 1967; repealed effective January 1, 1985. See rule 218.

Rule 220.2. [Repealed 1985]

Adopted effective September 1, 1967; amended effective January 1, 1977; repealed effective January 1, 1985. See rule 219.

Rule 220.3. [Repealed 1985]

Adopted effective September 1, 1967; repealed effective January 1, 1985. See rule 220.

Rule 220.4. [Repealed 1985]

Adopted effective September 1, 1967; repealed effective January 1, 1985. See rule 221.

Rule 221. [Repealed]

Former Rules
Former rule 221, relating to setting for trial in courts having nine or fewer judges, was adopted effective January 1, 1985; amended effective January 1, 1986; and repealed effective July 1, 2002.

Former rule 221, relating to certificate of readiness, was adopted effective January 1, 1967; amended effective January 1, 1969, and January 1, 1984; and repealed effective January 1, 1985.

Former rule 221, relating to exempt cases, was adopted effective January 1, 1963; amended effective July 1, 1964; and repealed effective September 1, 1967.

Original rule 221, also relating to exempt cases, was adopted January 1, 1949; amended effective January 1, 1957; and repealed effective January 1, 1963.

Drafter's Notes
1985—See note following rule 373.

2002—See note following rule 201.7.

CHAPTER 3. Settlement and Pretrial Rules

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 3, Settlement and Pretrial Rules; adopted effective July 1, 2002.

Rule 222. Mandatory settlement conferences

(a) [Settlement conference] On the court's own motion or at the request of any party, the court may set a mandatory settlement conference.

(Subd (a) amended effective July 1, 2002; previously amended effective January 1, 1995.)

(b) [Persons attending] Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with that consensual authority must be personally present at the conference.

(Subd (b) relettered and amended effective July 1, 2002; adopted as subd (c) effective January 1, 1985; previously amended effective January 1, 1995.)

(c) [Settlement conference statement] No later than five court days before the date set for the settlement conference, each party must submit to the court and serve on each party a mandatory settlement conference statement containing a good faith settlement demand and an itemization of economic and non-economic damages by each plaintiff and a good faith offer of settlement by each defendant. The statement must set forth and discuss in detail all facts and

law pertinent to the issues of liability and damages involved in the case as to that party and comply with any additional requirement imposed by local rule.

(Subd (c)relettered and amended effective July 1, 2002; adopted as subd (d) effective January 1, 1985; previously amended effective January 1, 1995.)

Rule 222 amended effective July 1, 2002; adopted effective January 1, 1985; previously amended effective January 1, 1995, and July 1, 2001.

Former Rules
Former rule 222, similar to present CCP §2024, was adopted effective September 1, 1967, and repealed effective January 1, 1984.

Former rule 222, relating to order dispensing with pretrial conference, and pretrial order, was adopted effective January 1, 1963; amended effective September 1, 1964; and repealed effective September 1, 1967.

Original rule 222, relating to appeals from justice and small claims courts, was adopted effective January 1, 1957, and repealed effective January 1, 1963.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (7) rule 222 concerning mandatory settlement conferences, to make the settlement conference before trial discretionary, to require any party with consensual authority to settle to be personally present at the conference, to specify several requirements concerning the contents of the settlement conference statement; and to authorize the court to impose sanctions as provided by law; . . .

2001— Rules 222, 225, and 227 (Sanctions for violations of the rules of court). Rule 227 is amended to authorize monetary sanctions for failure to comply with the civil pretrial and trial rules of the California Rules of Court. Amendments to rules 222 and 225 eliminate the duplicative provisions in those rules regarding sanctions, and amended rule 225 requires the plaintiff to notify the court not only of cases that have settled, but also of ones "otherwise disposed of" in order to clarify the scope of the duty to notify the court.

2002—See note following rule 201.7.

Rule 222.1. [Repealed 2003]

Rule 223. [Repealed 2002]

Former Rules
Former rule 223, relating to removing and restoring civil active cases, was adopted effective January 1, 1985; amended effective January 1, 1995; and repealed effective July 1, 2002.

Former rule 223, similar to present rule 224, was adopted effective January 1, 1949, and repealed effective January 1, 1985.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (8) rule 223 concerning removing and restoring civil active cases, to apply only to cases not subject to the Trial Court Delay Reduction Act and to eliminate the parties' ability to stipulate to the removal; . . .

2002—See note following rule 201.7.

Rule 224. [Repealed 2002]

Former Rules
Former rule 224, relating to civil calendar; repealed and adopted effective January 1, 1989; and repealed effective July 1, 2002.

Former rule 224, similar to present rule 375 subd (a) was adopted effective January 1, 1949, and repealed effective January 1, 1984.

Drafter's Notes
2002—See note following rule 201.7.

Rule 225. Duty to notify court and others of settlement or stay

(a) [Notice of settlement] If a case is settled or otherwise disposed of, the plaintiff must immediately file written notice of the settlement or other disposition with the court and serve the notice on any arbitrator or other court-connected ADR neutral involved in the case. The plaintiff must also immediately give oral notice to all of the above if a hearing, conference, or trial is imminent.

(Subd (a) amended effective July 1, 2002; previously amended effective January 1, 1989, and July 1, 2001.)

(b) [Dismissal of case] Except as provided in (c), the plaintiff must file a request for dismissal within 45 days after the date of settlement. If the plaintiff does not file the request for dismissal, the court must dismiss the case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

(Subd (b) amended effective July 1, 2002; adopted effective January 1, 1989.)

(c) [Conditional settlement] If the settlement agreement conditions dismissal on the satisfactory completion of specified terms that are not to be performed within 45 days of the settlement, the notice of conditional settlement must specify the date by which the dismissal is to be filed. If the plaintiff does not file a request for dismissal within 45 days after the dismissal date specified in the notice, the court must dismiss the case unless good cause is shown why the case should not be dismissed.

(Subd (c) amended effective July 1, 2002; adopted effective January 1, 1989.)

(d) [Filing notice of stay] This subdivision applies to cases stayed for the following reasons:

(1) Order of a federal court or a higher state court;

(2) Contractual arbitration under section 1281.4 of the Code of Civil Procedure;

(3) Arbitration of attorney fees and costs under section 6201 of the Business and Professions Code; or

(4) Automatic stay caused by a filing in another court.

The party who requested or caused the stay must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceedings are stayed. If the person who requested or caused the stay has not appeared, or is not subject to the jurisdiction of the court, the plaintiff must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceedings are stayed.

When a stay is vacated or is no longer in effect, the party who filed the notice of the stay must immediately file a notice that the stay is vacated or is no longer in effect.

(Subd (d) amended effective July 1, 2002; adopted effective January 1, 1989; previously amended effective January 1, 1992.)

Rule 225 amended effective July 1, 2002; adopted effective January 1, 1985; previously amended January 1, 1989, January 1, 1992, and July 1, 2001.

Former Rule

Former rule 225, similar to present rule 375 subd (b), was adopted effective January 1, 1949, and repealed effective January 1, 1984.

Drafter's Notes

1989—The council amended rule 225 of the California Rules of Court, effective January 1, 1989, to (a) require dismissal of cases 45 days after notice of settlement, and (b) require a notice of stay and a notice of settlement, and (c) require a notice of stay and a notice if stay is vacated. Amended rule 225 will assist courts in identifying inactive cases from the active cases that may require judicial attention.

1992—Recent legislation requires each municipal and justice court to establish a delay reduction program that is consistent with the Trial Court Delay Reduction Act of 1990. To permit a court to keep track of the age of its cases and to manage the caseload, parties must let the court know when a case is terminated by settlement or when a case is not subject to court control. The council amended rule 225 to require notice of stay and a notice if stay is vacated for arbitration of attorney fees and costs. The council also adopted rule 525, applicable to municipal and justice courts, to require dismissal of cases 45 days after notice of settlement; to require a notice of stay and a notice if stay is vacated; and to permit imposition of sanctions for failure to comply with the rule. Rule 514 was repealed because it is superseded by rule 525.

2001—See note following rule 222.

2002—See note following rule 201.7.

Rule 226. Assigned cases to be tried or dismissed—notification to presiding judge

(a) [Assignment of cases for trial] In a county employing the master calendar, each case transferred to a trial department must be tried, ordered off the calendar, or dismissed unless, for good cause arising after the commencement of the trial, the judge of the trial department continues the case for further hearing or, with the consent of the judge supervising the master calendar, reassigns the case to the judge supervising the master calendar for further disposition.

(Subd (a) relettered and amended effective July 1, 2002; adopted as untitled subdivision effective January 1, 1985.)

(b) [Notification to presiding judge] A judge who has finished or continued the trial of a case or any special matter must immediately notify the judge supervising the master calendar. The judge to whose department a cause is assigned for trial or for hearing must accept the assignment unless disqualified or, for other good cause stated to the judge supervising the master calendar, the judge supervising the master calendar determines that in the interest of justice the cause should not be tried or heard before the judge. When the judge has refused a cause and is not disqualified, the judge must state the reasons in writing unless the judge supervising the master calendar has concurred.

(Subd (b) relettered and amended effective July 1, 2002; adopted as untitled subdivision effective January 1, 1985.)

Rule 226 amended effective July 1, 2002; adopted effective January 1, 1985.

Former Rule
Former rule 226, similar to present rule 225, was adopted effective January 1, 1949, and repealed effective January 1, 1985.

Drafter's Notes
2002—See note following rule 201.7.

CHAPTER 4. Sanctions

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 4, Sanctions; renumbered effective July 1, 2002; adopted as Part 4 of Chapter 2 effective January 1, 1985.

Rule 227. Sanctions in respect to rules

(a) [Applicability] This sanctions rule applies to the rules in the California Rules of Court, Title Two (Pretrial and Trial Rules).

(Subd (a) adopted effective July 1, 2001.)

(b) [Sanctions] In addition to any other sanctions permitted by law, the court may order a person, after written notice and an opportunity to be heard, to pay reasonable monetary sanctions to the court or an aggrieved person, or both, for failure to comply with the rules in Title Two, unless good cause is shown. For the purposes of this rule, "person" includes a party, a party's attorney, or a witness. If a failure to comply with a rule in Title Two is the responsibility of counsel and not of the party, any penalty shall be imposed on counsel and shall not adversely affect the party's cause of action or defense thereto.

(Subd (b) relettered and amended effective July 1, 2001; adopted as untitled subdivision effective January 1, 1985; previously amended effective January 1, 1994.)

(c) [Notice and procedure] Sanctions shall not be imposed under this rule except upon notice in a party's motion papers or upon the court's own motion after the court has provided notice and an opportunity to be heard. A party's motion for sanctions shall (1) set forth the applicable rule in Title Two that has been violated, (2) describe the specific conduct that is alleged to have violated the rule, and (3) identify the attorney, law firm, party, or witness against whom sanctions are sought. The court on its own motion may issue an order to show cause that shall (1) set forth the applicable rule in Title Two that has been

violated, (2) describe the specific conduct that appears to have violated the rule, and (3) direct the attorney, law firm, party, or witness to show cause why sanctions should not be imposed against them for violation of the rule.

(Subd (c) adopted effective July 1, 2001.)

(d) [Award of expenses] In addition to the sanctions awardable under (b), the court may order the person who has violated a rule in Title Two to pay to the party aggrieved by the violation that party's reasonable expenses, including reasonable attorney fees and costs, incurred in connection with the sanctions motion or the order to show cause.

(Subd (d) adopted effective July 1, 2001.)

(e) [Order] An order imposing sanctions shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

(Subd (e) adopted effective July 1, 2001.)

Rule 227 amended effective July 1, 2001; adopted effective January 1, 1985; previously amended effective January 1, 1994.

Former Rule
Former rule 227, similar to present rule 226, was adopted effective January 1, 1949; amended effective January 1, 1973; and repealed effective January 1, 1985.

Drafter's Notes
1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments [rules 227, 512, 526, 2102, 2103, 2104, 2105; sections 2 and 2.3(c) of the Standards of Judicial Administration] to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

2001—See note following rule 222.

CHAPTER 5. Criminal Trial Court Management Rules

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 5, Criminal Trial Court Management Rules; renumbered from Chapter 3 effective July 1, 2002; adopted as Chapter 3 effective January 1, 1985.

Rule 227.1. Role of presiding judge, supervising judge, criminal division, and master calendar department in courts having more than three judges
Rule 227.2. Duties of supervising judge of the criminal division

Rule 227.3. [Renumbered 2001]
Rule 227.4. [Renumbered 2001]
Rule 227.5. [Renumbered 2001]
Rule 227.6. [Renumbered 2001]
Rule 227.7. [Renumbered 2001]
Rule 227.8. Meetings respecting the criminal court system
Rule 227.9. [Renumbered 2001]
Rule 227.10. Procedures for disposition of cases before the preliminary hearing

Rule 227.1. Role of presiding judge, supervising judge, criminal division, and master calendar department in courts having more than three judges

The presiding judge of a court having more than three judges may designate one or more departments primarily to hear criminal cases. Two or more departments so designated shall be the criminal division. The presiding judge may designate supervising judges for the criminal division, but shall retain final authority over all criminal and civil case assignments.

Rule 227.1 adopted effective January 1, 1985.

Drafter's Notes
1984—Section 10 of the Standards of Judicial Administration has been repealed and replaced by sections 10 and 10.1, and CRC Rules 227.1-227.10. The changes include:
1. Providing for the designation of a criminal division in courts having two or more criminal departments.
2. Identifying the duties of a supervising judge of the criminal division.
3. Specifying time limits for criminal proceedings.
4. Requiring the setting of dates for trial, readiness conferences, and pretrial motion hearings at the time of arraignment.
5. Providing that a readiness conference must be held within one to fourteen days before trial. 6. Disfavoring continuances.
7. Requiring regular meetings between judges and interested persons and organizations about the criminal court system.
8. Establishing procedures for certification to the superior court pursuant to Penal Code section 859a.
9. Directing the adoption of procedures to facilitate dispositions before the preliminary hearings.
10. Recommending by means of new standards the use in all courts of the criminal master calendar system and the disposition of pretrial motions before or at the readiness conference.

Rule 227.2. Duties of supervising judge of the criminal division

(a) [Duties] In addition to any other duties assigned by the presiding judge or imposed by these rules, a supervising judge of the criminal division shall assign criminal matters requiring a hearing or cases requiring trial to a trial department.

(b) [Arraignments, pretrial motions, and readiness conferences] The presiding judge, supervising judge, or other designated judge shall conduct arraignments, hear and determine any pretrial motions, preside over readiness conferences, and, where not inconsistent with law, assist in the disposition of cases without trial.

(c) [Additional judges] To the extent that the business of the court requires, the presiding judge may designate additional judges under the direction of the supervising judge to perform the duties specified in this rule.

(d) [Courts without supervising judge] In a court having no supervising judge, the presiding judge shall perform the duties of a supervising judge.

Rule 227.2 adopted effective January 1, 1985.

Drafter's Notes
1984—See note following rule 227.1.

Rule 227.3. [Renumbered 2001]

Rule 227.3 amended and renumbered rule 4.110 effective January 1, 2001; adopted effective January 1, 1985; previously amended effective June 6, 1990.

Rule 227.4. [Renumbered 2001]

Rule 227.4 amended and renumbered rule 4.100 effective January 1,2001; adopted effective January 1, 1985; previously amended effective June 6, 1990.

Rule 227.5. [Renumbered 2001]

Rule 227.5 renumbered 4.111 effective January 1, 2001; adopted effective January 1, 1985.

Rule 227.6. [Renumbered 2001]

Rule 227.6 renumbered 4.112(a) effective January 1, 2001; adopted effective January 1, 1985.

Rule 227.7. [Renumbered 2001]

Rule 227.7 renumbered rule 4.113 effective January 1, 2001; adopted effective January 1, 1985.

Rule 227.8. Meetings respecting the criminal court system

The supervising judge, or if none, the presiding judge, shall designate judges of the court to attend regular meetings to be held with judges of the municipal and justice courts, the district attorney, public defender, representatives of the local bar, probation department, court personnel, and other interested persons to identify and eliminate problems in the criminal court system and to discuss other problems of mutual concern.

Rule 227.8 adopted effective January 1, 1985.

Drafter's Notes
1984—See note following rule 227.1.

Rule 227.9. Certification to the superior court pursuant to Penal Code section 859a [Renumbered 2001]

Rule 227.9 amended and renumbered rule 4.114 effective January 1, 2001; adopted effective January 1, 1985.

Rule 227.10. Procedures for disposition of cases before the preliminary hearing

(a) [Disposition before preliminary hearing] Superior courts having more than three judges shall in cooperation with the municipal and justice courts, district attorney, and defense bar adopt procedures to facilitate dispositions before the preliminary hearing and at all other stages of the proceedings. The procedures may include:

(1) early, voluntary, informal discovery, consistent with part 2, title 6, chapter 10 of the Penal Code (commencing with section 1054); and

(2) the use of superior court judges as magistrates to conduct readiness conferences before the preliminary hearing and to assist, where not inconsistent with law, in the early disposition of cases.

(Subd (a) amended effective January 1, 1991; adopted effective January 1, 1985; previously amended effective June 6, 1990.)

(b) [Cases to be disposed of pursuant to rule 4.114] Pleas of guilty or no contest resulting from proceedings under subdivision (a) shall be disposed of as provided in rule 4.114.

(Subd (b) amended effective July 1, 2001.)

Rule 227.10 amended effective July 1, 2001; adopted effective January 1, 1985; previously amended effective June 6, 1990, and January 1, 1991.

Drafter's Notes
1984—See note following rule 227.1.

1990—Rule 227.10 is amended so the more inclusive term "defense bar" is substituted for "public defender." New rule 227.10(a)(1) is added to provide for early, voluntary, informal discovery in criminal cases, to supplement the formal discovery provisions of new Penal Code section 1054 et seq.

1991—The council amended rule 227.10 to facilitate criminal case resolution before preliminary hearings and at all other stages of the proceedings, and to encourage cooperation between the court, the district attorney, and the public defender at all stages.

CHAPTER 6. Other Trial Court Rules

Title 2, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 6, Other Trial Court Rules; renumbered from Chapter 3 and amended effective July 1, 2002; adopted effective January 1, 1949.

Rule 228. Examination of prospective jurors in civil cases
Rule 228.1. [Renumbered 2001]
Rule 228.2. [Renumbered 2001]
Rule 229. Proposed jury instructions
Rule 230. Request for special findings by jury
Rule 231. Communications from or with jury
Rule 232. Announcement of tentative decision, statement of decision and judgment
Rule 232.5. Statement of decision, judgment, and motion for new trial following bifurcated trial
Rule 233. Family law rules
Rule 234. Notation on written instrument of rendition of judgment
Rule 235. Orders extending time
Rule 236. Hearing of motion to vacate judgment
Rule 236.5. Notice of intention to move for new trial—time for service and filing of memorandum
Rule 237. [Repealed 1984]
Rule 238. [Repealed 1984]

Rule 228. Examination of prospective jurors in civil cases

This rule applies to all civil jury trials. To select a fair and impartial jury, the trial judge shall examine the prospective jurors orally, or by written questionnaire, or by both methods. The Juror Questionnaire for Civil Cases (Judicial Council form MC-001) may be used. Upon completion of the initial examination, the trial judge shall permit counsel for each party who so requests to submit additional questions that the judge shall put to the jurors. Upon request of counsel, the trial judge shall permit

counsel to supplement the judge's examination by oral and direct questioning of any of the prospective jurors. The scope of the additional questions or supplemental examination shall be within reasonable limits prescribed by the trial judge in the judge's sound discretion.

The court may, upon stipulation by counsel for all parties appearing in the action, permit counsel to examine the prospective jurors outside a judge's presence.

Rule 228 amended effective July 1, 1993; adopted effective January 1, 1949; previously amended effective January 1, 1972, January 1, 1974, January 1, 1975, January 1, 1988, January 1, 1990, and June 6, 1990.

Drafter's Notes

1988—Recent legislation provides for special procedures for judge-conducted voir dire in certain pilot project courts under Penal Code section 1078(b). The council amended rule 228 and Standards of Judicial Administration section 8.5 to exempt these courts from the standard voir dire procedures.

1989—The council amended rule 228, and section 8.5 of the Standards of Judicial Administration Recommended by the Judicial Council, to correct references to various code sections.

1990—Rule 228, concerning jury selection in the superior court, is amended to limit that section to civil actions and proceedings.

Rule 228.1. [Renumbered 2001]

Rule 228.1 renumbered rule 4.200 effective January 1, 2001; adopted effective June 6, 1990.

Rule 228.2. [Renumbered 2001]

Rule 228.2 amended and renumbered rule 4.201 effective January 1, 2001; adopted effective June 6, 1990.

Rule 229. Proposed jury instructions

(a) [Citation of authorities] Each proposed jury instruction presented by a party, except instructions requested by number reference to forms previously approved by the court, must contain at the bottom a citation of authorities, if any, supporting the statement of law in the instruction.

(Subd (a) amended effective January 1, 2003.)

(b) [Form of instruction] Except as to such approved forms, each proposed instruction must be in the form specified by rule 201, indicating the party upon

whose behalf it is requested. Instructions must be numbered consecutively, but not firmly bound together.

(Subd (b) amended effective January 1, 2003; previously amended effective July 1, 1988.)

(c) [Refusing proposed instructions] Proposed instructions, except those required by law, which do not comply with this rule or with law may be refused, in which event the judge must endorse on the proposed instruction the reason for its refusal.

(Subd (c) amended effective January 1, 2003; previously amended effective April 1, 1962, and July 1, 1988.)

Rule 229 amended effective January 1, 2003; adopted effective January 1, 1949; previously amended effective April 1, 1962, and July 1, 1988.

Rule 230. Request for special findings by jury

Whenever a party desires special findings by a jury, he shall, before argument, unless otherwise ordered, present to the judge in writing the issues or questions of fact upon which such findings are requested, in proper form for submission to the jury, and serve copies thereof upon all other parties.

Rule 230 adopted effective January 1, 1949.

Rule 231. Communications from or with jury

The trial judge shall preserve and deliver to the clerk for inclusion in the record all written communications, formal or informal, received from the jury or from individual jurors or sent by the judge to the jury or individual jurors, from the time the jury is sworn until it is discharged.

The trial judge shall ensure that the reporter, or any electronic recording system used instead of a reporter, records all oral communications, formal or informal, received from the jury or from individual jurors or communicated by the judge to the jury or individual jurors, from the time the jury is sworn until it is discharged.

Rule 231 adopted effective January 1, 1990.

Former Rule
Former rule 231, similar to rule 377, was repealed effective January 1, 1984.

Drafter's Notes
1989—The council amended rule 33 (defining the normal record on appeal in criminal cases) to require the record to include all communications with the jury, and adopted rule 231 to require superior court trial judges in civil and criminal cases to preserve all written communications to or from the jury.

Rule 232. Announcement of tentative decision, statement of decision and judgment

(a) [Announcement and service of tentative decision; modification] On the trial of a question of fact by the court, the court shall announce its tentative decision by an oral statement, entered in the minutes, or by a written statement filed with the clerk. Unless the announcement is made in open court in the presence of all parties who appeared at the trial, the clerk shall forthwith mail to all parties who appeared at the trial a copy of the minute entry or written tentative decision.

The tentative decision shall not constitute a judgment and shall not be binding on the court. If the court subsequently modifies or changes its announced tentative decision, the clerk shall mail a copy of the modification or change to all parties who appeared at the trial.

The court in its tentative decision may (1) state whether a statement of decision, if requested, will be prepared by the court or by a designated party, and (2) direct that the tentative decision shall be the statement of decision unless within ten days either party specifies controverted issues or makes proposals not covered in the tentative decision.

(Subd (a) amended effective January 1, 1983; adopted effective January 1, 1949; previously amended effective January 1, 1969, July 1, 1973, and January 1, 1982.)

(b) [Proposals following request for statement of decision (Code Civ. Proc., §632)]

Any proposals as to the content of the statement of decision shall be made within 10 days of the date of request for a statement of decision.

(Subd (b) amended effective January 1, 1982; adopted effective January 1, 1949; previously amended effective January 1, 1969.)

(c) [Preparation and service of proposed statement of decision and judgment] If a statement of decision is requested, the court shall, within 15 days after the expiration of the time for proposals as to the content of the statement of decision, prepare and mail a proposed statement of decision and a proposed

judgment to all parties who appeared at the trial, unless the court has designated a party to prepare the statement as provided by subdivision (a) or has, within 5 days after the request, notified a party to prepare the statement. A party who has been designated or notified to prepare the statement shall within 15 days after the expiration of the time for filing proposals as to the content of the statement, or within 15 days after notice, whichever is later, prepare, serve and submit to the court a proposed statement of decision and a proposed judgment. If the proposed statement of decision and judgment are not served and submitted within that time, any other party who appeared at the trial may: (1) prepare, serve and submit to the court a proposed statement of decision and judgment, or (2) serve on all other parties and file a notice of motion for an order that a statement of decision be deemed waived.

(Subd (c) amended effective January 1, 1982; adopted effective January 1, 1949; previously amended effective January 1, 1969, and July 1, 1973.)

(d) [Objections to proposed statement of decision] Any party affected by the judgment may, within 15 days after the proposed statement of decision and judgment have been served, serve and file objections to the proposed statement of decision or judgment.

(Subd (d) amended effective January 1, 1982; adopted effective January 1, 1949; previously amended effective January 1, 1969.)

(e) [Preparation and filing of written judgment when statement of decision not requested]

If a statement of decision is not requested or has been waived and a written judgment is required, the court shall prepare and mail a proposed judgment to all parties who appeared at the trial within 10 days after expiration of the time for requesting a statement of decision or time of waiver. The court may notify a party to prepare, serve and submit the proposed judgment to the court within 10 days. Any party affected by the judgment may, within 10 days after service of the proposed judgment, serve and file objections thereto.

The court shall, within 10 days after expiration of the time for filing objections to the proposed judgment or, if a hearing is held, within 10 days after the hearing, sign and file its judgment. The judgment so filed shall constitute the decision upon which judgment shall be entered pursuant to section 664 of the Code of Civil Procedure.

(Subd (e) amended and relettered effective January 1, 1982; adopted effective January 1, 1949; previously amended effective January 1, 1969.)

(f) [Hearing] The court may order a hearing on proposals or objections to a proposed statement of decision or the proposed judgment if a statement of decision is not required.

(Subd (f) adopted effective January 1, 1982.)

(g) [Extension of time; relief from noncompliance] The court may, by written order, extend any of the times prescribed by this rule and at any time prior to the entry of judgment may, for good cause shown and on such terms as may be just, excuse a noncompliance with the time limits prescribed for doing any act required by this rule.

(Subd (g) amended and relettered effective January 1, 1982; adopted effective January 1, 1949; previously amended effective January 1, 1969, and July 1, 1973.)

(h) This rule does not apply if the trial was completed within one day.

(Subd (h) as adopted effective January 1, 1983.)

(i) [Relettered subd (g)]

Rule 232 amended effective January 1, 1983; adopted effective January 1, 1949; previously amended effective January 1, 1969, July 1, 1973, and January 1, 1982.

Drafter's Notes

1982—CCP §632 was amended by Stats. 1981, ch. 900 to substitute a new "statement of decision" procedure in place of written findings of fact and conclusions of law; rules 232, 232.5, and 520 are amended to conform to and implement the statutory changes.

1983—At the suggestion of a superior court judge, the Judicial Council amended rules 232 and 520 to provide that an announcement of tentative decision may state that it will stand as the court's statement of decision in the event one is requested, unless within 10 days either party makes additional proposals as to the content of the statement of decision. The amendments also clarify that these rules only apply when trial was not completed in one day (see Code Civ. Proc. §632).

Rule 232.5. Statement of decision, judgment, and motion for new trial following bifurcated trial

When a factual issue raised by the pleadings is tried by the court separately and prior to the trial of other issues, the judge conducting the separate trial shall announce the tentative decision on the issue so tried and shall, when requested pursuant to Code of Civil Procedure section 632, issue a statement of decision as

prescribed in rule 232; but no proposed judgment shall be prepared until the other issues are tried, except when an interlocutory judgment or a separate judgment may otherwise be properly entered at that time. If the other issues are tried by a different judge or judges, each judge shall perform all acts required by rule 232 as to the issues tried by that judge and the judge trying the final issue shall prepare the proposed judgment. A judge may proceed with the trial of subsequent issues before the issuance of a statement of decision on previously tried issues. Any motion for a new trial following a bifurcated trial shall be made after all the issues are tried and, if the issues were tried by different judges, each judge shall hear and determine the motion as to the issues tried by that judge.

Rule 232.5 amended effective January 1, 1985; adopted effective January 1, 1975; previously amended effective January 1, 1982.

Drafter's Notes
1982—See note following rule 232.

1984—The rule was amended to clarify the statement of decision process following the first part of a bifurcated trial. The rule now provides that the court in its discretion may proceed with the second portion of a bifurcated trial even though the statement of decision process has not been completed on the first part.

Rule 233. Family law rules

The rules contained in Division I (commencing with rule 5.10) of Title Five of these rules shall govern all proceedings under the Family Law Act as defined in rule 5.10.

Rule 233 amended effective January 1, 2003; adopted effective January 1, 1970.

Former Rule
Former rule 233, relating to declaration for final judgment of divorce, was adopted effective January 1, 1949; amended effective April 1, 1962; and repealed effective January 1, 1970.

Rule 234. Notation on written instrument of rendition of judgment

In all cases in which judgment is rendered upon a written obligation to pay money, the clerk shall, at the time of entry of judgment, unless otherwise ordered, note over his official signature and across the face of the writing the fact of rendition of judgment with the date thereof and title of the court and cause.

Rule 234 adopted effective January 1, 1949.

Rule 235. Orders extending time

(a) [Application—to whom made] Applications for orders extending the time within which any act is required by law to be done shall be heard and determined by the judge before whom the matter is pending; provided, however, that in case of the inability, death or absence of such judge, the same may be heard and determined by another judge of the same court.

(b) [Disclosure of previous extensions] Applicants for orders extending time shall disclose in writing the nature of the case and what extensions, if any, have previously been granted by order of court or stipulation of counsel.

(c) [Filing and service] Orders extending time shall be filed forthwith and copies served within 24 hours after the making thereof or within such other time as may be fixed by the court.

Rule 235 adopted effective January 1, 1949.

Rule 236. Hearing of motion to vacate judgment

A motion to vacate judgment under section 663 of the Code of Civil Procedure shall be heard and determined by the judge who presided at the trial; provided, however, that in case of the inability or death of such judge or if at the time noticed for the hearing thereon he is absent from the county where the trial was had, the motion may be heard and determined by another judge of the same court.

Rule 236 adopted effective January 1, 1949.

Rule 236.5. Notice of intention to move for new trial—time for service and filing of memorandum

Within 10 days after filing notice of intention to move for a new trial in a civil case, the moving party must serve and file a memorandum in support of the motion, and within 10 days thereafter any adverse party may serve and file a memorandum in reply. If the moving party fails to serve and file the prescribed memorandum, the court may deny the motion without a hearing on the merits.

Rule 236.5 amended and renumbered effective January 1, 2003; adopted as rule 203 effective January 1, 1949; previously amended effective April 1, 1962, January 1, 1971, January 1, 1984, and January 1, 1987.

Rule 237. [Repealed 1984]

Adopted effective January 1, 1949; amended effective April 1, 1962; repealed effective January 1, 1984. See rule 359.

Rule 238. [Repealed 1984]

Adopted January 1, 1949; repealed effective January 1, 1984. See rule 349.

Rule 239. [Repealed 1984]

Adopted effective January 1, 1949; repealed effective January 1, 1984. See rule 351.

Rule 240. [Repealed 1998]

Rule 240 repealed effective January 1, 1998; adopted effective January 1, 1988.

Advisory Committee Comment

1998—Repeal of this rule conforms to the recent decision by the California Supreme Court overturning the parental consent to abortion statute.

Rule 241. [Repealed 2002]

Rule 241 repealed effective January 1, 2002; adopted effective January 1, 1949.

Rule 241.2. [Renumbered 2001]

Rule 241.2 amended and renumbered rule 4.116 effective January 1, 2001; adopted effective January 1, 1991; previously amended effective July 1, 1991.

Rule 242. [Repealed 1984]

Adopted effective January 1, 1949; amended effective January 1, 1977; repealed effective January 1, 1984. See rule 381; CCP §§995.360, 995.510, 995.630.

Rule 243. Court records

(a) [Removal of papers] Only the clerk shall remove and replace papers in the files. Unless otherwise ordered by the court, filed papers may only be inspected by the public in the office of the clerk and released to a court officer or attache for use in a court facility. No original papers filed with the clerk shall be used in any location other than a court facility, unless so ordered by the presiding judge or a judge designated by the presiding judge.

(Subd (a) amended effective July 1, 1993.)

(b) [Original papers filed with the clerk; duplicate papers for temporary judge or referee] In a case pending before a temporary judge or referee, whether

privately compensated or not, a party shall tender and the clerk shall accept for filing all original papers accompanied by the required fee within the time limits specified by law. The filing party shall provide a file-stamped copy to the temporary judge or referee of each paper relevant to the issues before the private judge or referee. When the filing of the paper does not require the payment of a fee, in lieu of a file-stamped copy, the filing party may use a true copy of the paper accompanied by a declaration about the date of its filing.

(Subd (b) adopted effective July 1, 1993.)

(c) [Return of exhibits] No exhibit shall be released from the possession of the clerk except on order of the court. The clerk shall require a signed receipt for a released exhibit.

If proceedings are conducted by a temporary judge or a referee outside of court facilities, the temporary judge or referee shall keep all exhibits and deliver them, properly marked, to the clerk at the conclusion of the proceeding, unless the parties file a written stipulation that the exhibits may be disposed of otherwise. On request of the temporary judge or referee, the clerk shall deliver exhibits to the possession of the temporary judge or referee, who shall not release them to any person other than the clerk. Exhibits in the possession of the temporary judge or referee shall be made available during business hours for inspection by any person within a reasonable time after request.

(Subd (c) amended and relettered effective July 1, 1993; adopted as subd (b) effective January 1, 1949.)

Rule 243 amended effective July 1, 1993; adopted effective January 1, 1949.

Rule 243.1. Sealed records

(a) [Applicability]

(1) Rules 243.1–243.4 apply to records sealed or proposed to be sealed by court order.

(2) These rules do not apply to records that are required to be kept confidential by law. These rules also do not apply to discovery motions and records filed or lodged in connection with discovery motions or proceedings. The rules do apply to discovery materials that are used at trial or submitted as a basis for adjudication of matters other than discovery motions or proceedings.

(b) [Definitions]

(1) "Record." Unless the context indicates otherwise, "record" as used in this rule means all or a portion of any document, paper, exhibit, transcript, or other thing filed or lodged with the court.

(2) "Sealed." A "sealed" record is a record that by court order is not open to inspection by the public.

(3) "Lodged." A "lodged" record is a record that is temporarily placed or deposited with the court but not filed.

(c) [Court records presumed to be open] Unless confidentiality is required by law, court records are presumed to be open.

(d) [Express findings required to seal records] The court may order that a record be filed under seal only if it expressly finds that:

(1) There exists an overriding interest that overcomes the right of public access to the record;

(2) The overriding interest supports sealing the record;

(3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exist to achieve the overriding interest.

(e) [Scope of the order]

(1) An order sealing the record must (i) specifically set forth the factual findings that support the order, and (ii) direct the sealing of only those documents and pages—or, if reasonably practicable, portions of those documents and pages—that contain the material that needs to be placed under seal. All other portions of each documents or page must be included in the public file.

(2) Consistent with Code of Civil Procedure sections 639 and 645.1, if the records that a party is requesting be placed under seal are voluminous, the

court may appoint a referee and fix and allocate the referee's fees among the parties.

Advisory Committee Comment

This rule and rule 243.2 provide a standard and procedures for courts to use when a request is made to seal a record. The standard is based on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. These rules apply to civil and criminal cases. They recognize the First Amendment right of access to documents used at trial or as a basis of adjudication. The rules do not apply to records that courts must keep confidential by law. Examples of confidential records to which public access is restricted by law are records of the family conciliation court (Family Code, § 1818(b)) and in forma pauperis applications (Cal. Rules of Court, rule 985(h)). The sealed records rules also do not apply to discovery proceedings, motions, and materials that are not used at trial or submitted to the court as a basis for adjudication. (See *NBC Subsidiary*, 20 Cal.4th at 1208–1209, fn. 25.)

Rule 243.1(d)–(e) is derived from NBC Subsidiary. That decision contains the requirements that the court, before closing a hearing or sealing a transcript, must find an "overriding interest" that supports the closure or sealing, and must make certain express findings. (Id. at 1217–1218). The decision notes that the First Amendment right of access applies to records filed in both civil and criminal cases as a basis for adjudication. (Id. at 1208–1209, fn. 25.) Thus, the NBC Subsidiary test applies to the sealing of records.

NBC Subsidiary provides examples of various interests that courts have acknowledged may constitute "overriding interests." (See id. at 1222, fn. 46.) Courts have found that, under appropriate circumstances, various statutory privileges, trade secrets, and privacy interests, when properly asserted and not waived, may constitute "overriding interests." The rules do not attempt to define what may constitute an "overriding interest," but leave this to case law.

Rule 243.1 adopted effective January 1, 2001.

Rule 243.2. Procedures for filing records under seal

(a) [Court approval required] A record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely upon the agreement or stipulation of the parties.

(b) [Motion to seal a record]

(1) A party requesting that a record be filed under seal must file a noticed motion for an order sealing the record. The motion must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing.

(2) The party requesting that a record be filed under seal must lodge it with the court under (d) when the motion is made, unless good cause exists for not lodging it. Pending the determination of the motion, the lodged record will be conditionally under seal.

(3) If necessary to prevent disclosure, the motion, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(4) If the court denies the motion to seal, the clerk must return the lodged record to the submitting party and must not place it in the case file.

(c) [References to nonpublic material in public records] A record filed publicly in the court must not disclose material contained in a record that is sealed, conditionally under seal, or subject to a pending motion to seal.

(d) [Lodging of records that a party is requesting be placed under seal]

(1) The party requesting that a record be filed under seal must put it in a manila envelope or other appropriate container, seal the envelope or container, and lodge it with the court.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record must affix to the envelope or container a cover sheet that:

(i) Contains all the information required on a caption page under rule 201; and

(ii) States that the enclosed record is subject to a motion to file the record under seal.

(4) Upon receipt of a record lodged under this rule, the clerk must endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless the court orders it filed.

(e) [Order]

(1) If the court grants an order sealing a record, the clerk must substitute on the envelope or container for the label required by (d)(2) a label prominently stating, "SEALED BY ORDER OF THE COURT ON *(DATE),*" and must replace the cover sheet required by (d)(3) with a filed-endorsed copy of the court's order.

(2) The order must state whether—in addition to records in the envelope or container—the order itself, the register of actions, any other court records, or any other records relating to the case are to be sealed.

(3) The order must state whether any person other than the court is authorized to inspect the sealed record.

(4) A sealed record must not be unsealed except upon order of the court.

(f) [Custody of sealed records] Sealed records must be securely filed and kept separately from the public file in the case.

(g) [Custody of voluminous records] If the records to be placed under seal are voluminous and are in the possession of a public agency, the court may by written order direct the agency instead of the clerk to maintain custody of the original records in a secure fashion. If the records are requested by a reviewing court, the trial court must order the public agency to deliver the records to the clerk for transmission to the reviewing court under these rules.

(h) [Motion to unseal records] A party or member of the public, or the court on its own motion, may move to unseal a record. Notice of the motion to unseal must be filed and served on the parties. The motion, opposition, reply, and supporting documents must be filed in a public redacted version and a sealed complete version if necessary to comply with (c).

Rule 243.2 adopted effective January 1, 2001.

Rule 243.3. Request for delayed public disclosure

In an action in which the prejudgment attachment remedy under Code of Civil Procedure section 483.010 et seq. is sought, if the plaintiff requests at the time a complaint is filed that the records in the action or the fact of the filing of the action be made temporarily unavailable to the public under Code of Civil Procedure section 482.050, the plaintiff must file a declaration stating one of the following:

(1) "This action is on a claim for money based on contract against a defendant who is not a natural person. The claim is not secured within the meaning of Code of Civil Procedure section 483.010(b)." —or—

(2) "This action is on a claim for money based on contract against a defendant who is a natural person. The claim arises out of the defendant's conduct of a trade, business, or profession, and the money, property, or

services were not used by the defendant primarily for personal, family, or household purposes. The claim is not secured within the meaning of Code of Civil Procedure section 483.010(b)."

Rule 243.3 adopted effective January 1, 2001.

Rule 243.4. Confidential in-camera proceedings

(a) [Minutes of proceedings] If a confidential in-camera proceeding is held in which a party is excluded from being represented, the clerk must include in the minutes the nature of the hearing and only such references to writings or witnesses as will not disclose privileged information.

(b) [Disposition of examined records] Records examined by the court in confidence under (a), or copies of them, must be filed with the clerk under seal and must not be disclosed without court order.

Rule 243.4 adopted effective January 1, 2001.

Rule 243.5. Filing False Claims Act records under seal

(a) [Application] Rules 243.5–243.8 apply to records initially filed under seal under the False Claims Act, Government Code section 12650 et seq. As to these records, rules 243.1–243.4 on sealed records do not apply.

(b) [Definitions]

(1) "Attorney General" means the Attorney General of the State of California.

(2) "Prosecuting authority" refers to the county counsel, city attorney, or other local government official charged with investigating, filing, and conducting civil legal proceedings on behalf of or in the name of a particular political subdivision.

(3) "*Qui tam* plaintiff" refers to a person who files a complaint under the False Claims Act.

(4) Unless the context indicates otherwise, the definitions in Government Code section 12650 apply to rules 243.5–243.8.

(c) [Confidentiality of records filed under the False Claims Act] Records of actions filed by a *qui tam* plaintiff must initially be filed as confidential and

under seal as required by Government Code section 12652(c). Until the seal is lifted, the records in the action must remain under seal, except to the extent otherwise provided in this rule.

(d) [Persons permitted access to sealed records in False Claims Act cases] As long as the records in a False Claims Act case are under seal, public access to the records in the case is prohibited. The prohibition on public access applies to not only filed documents but also computerized records that would disclose information about the case, including the identity of any plaintiff or defendant. Only the information concerning filed records contained on the confidential cover sheet prescribed under rule 243.6(c) is to be entered into the register of actions that is accessible to the public.

(1) (*Parties permitted access to the sealed court file)* As long as the file is under seal, the only parties permitted access to the court file are the following:

(A) The Attorney General;

(B) A prosecuting authority for the political subdivision on whose behalf the action is brought, unless the political subdivision is named as a defendant; and

(C) A prosecuting authority for any other political subdivision interested in the matter whose identity has been provided to the court by the Attorney General.

(2) (*Parties not permitted access to the sealed court file)* As long as the file is under seal, no defendant is permitted to have access to the court records or other information regarding the case. Defendants not permitted access include any political subdivision that has been named as a defendant in a False Claims Act action.

(3) *(*Qui tam *plaintiff's limited access to sealed court file)* The *qui tam* plaintiff is permitted access to all documents filed by the *qui tam* plaintiff and to such other documents as the court may order.

Rule 243.5 adopted effective July 1, 2002.

Former Rule

Former rule 243.5 was amended and renumbered to rule 6.6.755 effective January 1, 2001; adopted effective July 1, 1992; previously amended effective January 1, 1994 and January 1, 1995.

Drafter's Notes

2002—Under the False Claims Act, the complaint and other papers submitted early in the case must be filed under seal by operation of law. But litigants and the courts are sometimes unfamiliar with, or uncertain about, the proper procedures for handling filings in such cases. As a result, there have been problems with the inadvertent disclosure of confidential information. The new rules and a new form prescribe procedures for filing papers in False Claims Act cases. Courts should note that papers initially filed in False Claims Act cases must have a *Confidential Cover Sheet—False Claims Action* (form MC-060) affixed and must be kept under seal. The register of actions must include only the information contained on the cover sheets filed with the court. Also, in counties where filings are accepted in multiple locations, the presiding judge must designate one location where all False Claims Act cases must be filed. False Claims Act cases are not subject to the new rules on the service of pleadings and case management.

Rule 243.6. Procedures for filing records in False Claims Act cases under seal

(a) [No order required] Upon the filing of an action under the False Claims Act, the complaint, motions for extensions of time, and other papers filed with the court must be kept under seal. No order sealing these records is necessary because the sealing of these records is required under Government Code section 12652.

(b) [Special procedures for filing in counties where filings are accepted in multiple locations] In counties where complaints in civil cases may be filed in more than one location, the presiding judge must designate one particular location where all filings in False Claims Act cases must be made.

(c) [Special cover sheet omitting names of the parties] In False Claims Act cases, the complaint and every other paper filed while the case is under seal must have a completed *Confidential Cover Sheet—False Claims Action* (form MC-060) affixed to the first page.

(d) [Filing of papers under seal] When the complaint or other paper is filed under seal, the clerk must stamp both the cover sheet and the caption page of the paper.

(e) [Custody of sealed records] Records in False Claims Act cases that are confidential and under seal must be securely filed and kept separate from the public file in the case.

Rule 243.6 adopted effective July 1, 2002.

Former Rule
Former rule 243.6 was amended and renumbered to rule 6.756 effective January 1, 2001; adopted effective January 1, 1994.

Drafter's Notes
2002—See note following rule 243.5.

Rule 243.7. Motion for extension of time

A motion for extension of time under Government Code section 12652 may be applied for ex parte under rule 379.

Rule 243.7 adopted effective July 1, 2002.

Drafter's Notes
2002—See note following rule 243.5.

Rule 243.8. Unsealing of records and management of False Claims Act cases

(a) [Expiration or lifting of seal] Records to which public access has been prohibited under Government Code section 12652(c) must remain under seal until the Attorney General and all prosecuting authorities involved in the action have notified the court of their decision to intervene or not intervene. They must provide this notice within 60 days of the filing of the complaint or before an order extending the time to intervene has expired, unless a new motion to extend time to intervene is pending, in which case the seal remains in effect until a ruling is made on the motion.

(b) [Coordination of state and local authorities] The Attorney General and all local prosecuting authorities must coordinate their activities to provide timely and effective notice to the court that (1) a political subdivision or subdivisions remain interested in the action and have not yet determined whether to intervene, or (2) the seal has been extended by the filing or grant of a motion to extend time to intervene and therefore the seal has not expired.

(c) [Designation of lead local prosecuting authority] In a False Claims Act case in which the Attorney General is not involved or has declined to intervene and local prosecuting authorities remain interested in the action, the court may designate a lead prosecuting authority to keep the court apprised of whether all the prosecuting authorities have either intervened or declined to intervene, and whether the seal is to be lifted.

(d) [Order unsealing record] The Attorney General or other prosecuting authority filing a notice of intervention or nonintervention must submit a proposed order indicating the documents that are to be unsealed or to remain sealed.

(e) [Case management] The court, at the request of the parties, or on its own motion, may hold a conference at any time in a False Claims Act case to determine what case management is appropriate for the case, including the lifting or partial lifting of the seal, the scheduling of trial and other events, and any other matters that may assist in managing the case. Cases under the False Claims Act are exempt from rules 201.7 and 212, but are subject to such case management orders as the court may issue.

Rule 243.8 adopted effective July 1, 2002.

Drafter's Notes
2002—See note following rule 243.5.

Rule 243.9. Electronic recordings offered in evidence—transcripts

(a) [Transcript of electronic recording] Unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording must tender to the court and to opposing parties a typewritten transcript of the electronic recording. The transcript must be marked for identification. A duplicate of the transcript, as defined in Evidence Code section 260, must be filed by the clerk and must be part of the clerk's transcript in the event of an appeal. Any other recording transcript provided to the jury must also be marked for identification, and a duplicate must be filed by the clerk and made part of the clerk's transcript in the event of an appeal.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) [Transcription by court reporter not required] Unless otherwise ordered by the trial judge, the court reporter need not take down or transcribe an electronic recording that is admitted into evidence.

(Subd (b) amended and lettered effective January 1, 2003.)

Rule 243.9 amended and renumbered effective January 1, 2003; adopted as rule 203.5 effective July 1, 1988; previously amended effective January 1, 1997.

Rule 244. Temporary judge—stipulation, order, oath, assignment, compensation, and other matters

(a) [Stipulation] Except as provided in rule 1727, the stipulation of the parties that a case may be tried by a temporary judge must be in writing and must state the name and office address of the member of the State Bar agreed upon. It must be submitted for approval to the presiding judge or to the supervising judge of a branch court. This subdivision does not apply to the selection of a court commissioner to act as a temporary judge.

(Subd (a) amended effective July 1, 2001; previously amended and relettered effective July 1, 1993; previously amended effective January 1, 2001.)

(b) [Order and oath] The order designating the temporary judge must be endorsed upon the stipulation, which must then be filed. The temporary judge must take and subscribe the oath of office and certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules. The oath and certification must be attached to the stipulation and order of designation, and the case will then be assigned to the temporary judge for trial. After the oath is filed, the temporary judge may proceed with the hearing, trial, and determination of the case.

A filed oath and order, until revoked, may be used in any case in which the parties stipulate to the designated temporary judge. The stipulation must specify the filing date of the oath and order.

This subdivision does not apply to the selection of a court commissioner to act as a temporary judge.

(Subd (b) amended effective July 1, 2001; previously amended and relettered effective July 1, 1993.)

(c) [Disclosure to the parties] In addition to any other disclosure required by law, no later than five days after appointment as a temporary judge or, if the temporary judge is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, a temporary judge must disclose to the parties:

(1) Any matter subject to disclosure under subdivisions (D)(2)(f) and (D)(2)(g) of canon 6 of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the temporary judge has or has had with a party, attorney, or law firm in the instant case, including the number and nature of any other proceedings in the past 24 months in which the temporary judge has been privately compensated by

a party, attorney, law firm, or insurance company in the instant case for any services, including, but not limited to, service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (c) adopted effective July 1, 2001.)

(d) [Disqualification] Requests for disqualification of temporary judges are determined as provided in Code of Civil Procedure sections 170.1, 170.2, 170.3, 170.4, and 170.5.

(Subd (d) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (c).)

(e) [Use of court facilities, court personnel, and summoned jurors] A party who has elected to use the services of a privately compensated temporary judge is deemed to have elected to proceed outside the courthouse, and court facilities, court personnel, or summoned jurors must not be used, except upon a finding by the presiding judge that the use would further the interests of justice. For all matters pending before privately compensated temporary judges, the clerk must post a notice indicating the case name and number as well as the telephone number of a person to contact to arrange for attendance at any proceeding that would be open to the public if held in a courthouse.

(Subd (e) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (d).)

(f) [Order for appropriate hearing site] The presiding judge or supervising judge, on request of any person or on the judge's own motion, may order that a case before a privately compensated temporary judge must be heard at a site easily accessible to the public and appropriate for seating those who have made known their plan to attend hearings. The request must be by letter with reasons stated and must be accompanied by a declaration that a copy of the request was mailed to each party, to the temporary judge, and to the clerk for placement in the file. The order may require that notice of trial or of other proceedings be given to the requesting party directly. An order for an appropriate hearing site is not grounds for withdrawal of a stipulation.

(Subd (f) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (e).)

(g) [Motion to withdraw stipulation or to seal records; complaint for intervention] A motion to withdraw a stipulation for the appointment of a

temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge. A declaration that a ruling is based on error of fact or law does not establish good cause for withdrawing a stipulation. Notice of the motion must be served and filed, and the moving party must mail or deliver a copy to the temporary judge. If the motion is granted, the case must be transferred to the trial court docket.

A motion to seal records in a cause before a privately compensated temporary judge must be served and filed and must be heard by the presiding judge or a judge designated by the presiding judge. The moving party must mail or deliver a copy of the motion to the temporary judge and to any person or organization who has requested that the case be heard at an appropriate hearing site.

A motion for leave to file a complaint for intervention in a cause before a privately compensated temporary judge must be served and filed, and must be assigned for hearing as a law and motion matter. The party seeking intervention must mail or deliver a copy of the motion to the temporary judge. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate in the manner prescribed in subdivision (a) to proceed before the temporary judge.

(Subd (g) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (f).)

(h) [Compensation] Temporary judges must not be compensated by the parties unless the parties agree in writing on a rate of compensation to be paid by the parties.

(Subd (h) amended and relettered effective July 1, 2001; adopted effective July 1, 1995, as subd (g).)

Rule 244 amended effective July 1, 2001; adopted effective January 1, 1949; previously amended effective April 1, 1962, July 1, 1981, July 1, 1987, July 1, 1993, July 1, 1995, and January 1, 2001.

Drafter's Notes

1981—Rule 244 was amended to substitute the term "temporary judge" in place of the outdated wording "judge pro tempore."

1987—The council amended rules 244 and 532 to streamline the appointment of temporary judges. The amendments will (1) permit the order designating a temporary judge to be signed by the supervising judge in a branch court, (2) allow a temporary judge to execute a blanket oath, and (3) allow the court to sign a blanket order designating a temporary judge.

1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended rules 244 and 532 concerning the compensation of temporary judges. The change was in conformance with recent amendments to Penal Code section 94.

January 2001—These amendments provide an alternative means of obtaining a stipulation in small claims cases. The court must post a conspicuous sign inside or just outside the courtroom accompanied by oral, videotape, or audiotape notification by a court officer on the day of the hearing, stating that the case will be heard by a pro tem judge absent objection.

July 2001—Revised rules 244, 244.1, 244.2, 1604, and 1606 update rules relating to references to correspond to recent legislation; clarify that the reference procedure may not be used to appoint a person to conduct a mediation; enhance enforcement of and compliance with ethical standards applicable to temporary judges, referees, and court-appointed arbitrators; and clarify that courts are not prohibited from compensating temporary judges.

Rule 244.1. Reference by agreement

(a) [Reference pursuant to Code of Civil Procedure section 638] A written agreement for an order appointing a referee pursuant to section 638 of the Code of Civil Procedure must be presented with a proposed order to the judge to whom the case is assigned, or to the presiding judge or supervising judge if the case has not been assigned. The proposed order must state the name, business address, and telephone number of the proposed referee and, if he or she is a member of the State Bar, the proposed referee's State Bar number. If the proposed referee is a former California judicial officer, he or she must be an active or inactive member of the State Bar. The proposed order must bear the proposed referee's signature indicating consent to serve and certification that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules. The written agreement and proposed order must clearly state whether the scope of the reference covers all issues or is limited to specified issues.

(Subd (a) amended effective July 1, 2001.)

(b) [Purposes of reference] A court must not use the reference procedure under Code of Civil Procedure section 638 to appoint a person to conduct a mediation. Nothing in this subdivision is intended to prevent a court from appointing a referee to conduct a mandatory settlement conference or, following the termination of a reference, from appointing a person who previously served as a referee to conduct a mediation.

(Subd (b) adopted effective July 1, 2001.)

(c) [Disclosure by referee] In addition to any other disclosure required by law, no later than five days prior to the deadline for parties to file a motion for disqualification of the referee under Code of Civil Procedure section 170.6 or, if the referee is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, a referee must disclose to the parties:

(1) Any matter subject to disclosure under subdivisions (D)(2)(f) and (D)(2)(g) of canon 6 of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the referee has or has had with a party, attorney, or law firm in the instant case, including the number and nature of any other proceedings in the past 24 months in which the referee has been privately compensated by a party, attorney, law firm, or insurance company in the instant case for any services, including, but not limited to, service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (c) adopted effective July 1, 2001.)

(d) [Objections to the appointment] An agreement for an order appointing a referee does not constitute a waiver of grounds for objection to the appointment under section 641 of the Code of Civil Procedure, but any objection must be made with reasonable diligence. Any objection to the appointment of a person as a referee must be in writing and must be filed and served upon all parties and the referee.

(Subd (d) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (b).)

(e) [Use of court facilities and court personnel] A party who has elected to use the services of a privately compensated referee pursuant to section 638 of the Code of Civil Procedure is deemed to have elected to proceed outside the courthouse; therefore, court facilities and court personnel must not be used, except upon a finding by the presiding judge that the use would further the interests of justice. For all matters pending before privately compensated referees, the clerk must post a notice indicating the case name and number as well as the telephone number of a person to contact to arrange for attendance at any proceeding that would be open to the public if held in a courthouse.

(Subd (e) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (c).)

(f) [Order for appropriate hearing site] The presiding judge or supervising judge, on request of any person or on the judge's own motion, may order that a case before a privately compensated referee must be heard at a site easily accessible to the public and appropriate for seating those who have made known their plan to attend hearings. The request must be by letter with reasons stated and must be accompanied by a declaration that a copy of the request was mailed to each party, to the referee, and to the clerk for placement in the file. The order may require that notice of trial or of other proceedings be given to the requesting party directly. An order for an appropriate hearing site is not grounds for withdrawal of a stipulation.

(Subd (f) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (d).)

(g) [Motion to withdraw stipulation or to seal records; complaint for intervention] A motion to withdraw a stipulation for the appointment of a referee must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge. A declaration that a ruling is based on an error of fact or law does not establish good cause for withdrawing a stipulation. Notice of the motion must be served and filed, and the moving party must mail or deliver a copy to the referee. If the motion is granted, the case must be transferred to the trial court docket.

A motion to seal records in a cause before a privately compensated referee must be served and filed and must be heard by the presiding judge or a judge designated by the presiding judge. The moving party must mail or deliver a copy of the motion to the referee and to any person or organization who has requested that the case take place at an appropriate hearing site.

A motion for leave to file a complaint for intervention in a cause before a privately compensated referee must be served and filed, and must be assigned for hearing as a law and motion matter. The party seeking intervention must mail or deliver a copy of the motion to the referee. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate in the manner prescribed in subdivision (a) to proceed before the referee.

(Subd (g) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (e).)

(h) [Copies to office of presiding judge] A copy of the order appointing the referee, the referee's report under Code of Civil Procedure section 643, and

any order of the court concerning the compensation of the referee must be forwarded to the office of the presiding judge of the court. On a monthly basis, the presiding judge must forward copies of these orders and reports to the Reference Research Project at the Administrative Office of the Courts.

(Subd (h) adopted effective July 1, 2001.)

Rule 244.1 amended effective July 1, 2001; adopted effective July 1, 1993.

Drafter's Notes:
2001—See note following rule 244.

Rule 244.2. Reference by order

(a) [Motion for reference pursuant to Code of Civil Procedure section 639] A motion by a party for the appointment of a referee pursuant to section 639 of the Code of Civil Procedure must be served and filed and must be heard in the department to which the case is assigned or, if the case has not been assigned, in the department in which law and motion matters are heard. The motion must specify the matter or matters to be included in the requested reference.

(Subd (a) amended effective July 1, 2001; previously amended effective January 1, 1996.)

(b) [Purposes of reference] A court may order the appointment of a referee under Code of Civil Procedure section 639 only for the purposes specified in that section. A court must not use the reference procedure under Code of Civil Procedure section 639 to appoint a person to conduct a mediation. Nothing in this subdivision is intended to limit the power of a court to appoint a referee to conduct a mandatory settlement conference in a complex case or to prevent a court, following the termination of a reference, from appointing a person who previously served as a referee to conduct a mediation.

(Subd (b) adopted effective July 1, 2001.)

(c) [Reference order] A discovery referee must not be appointed pursuant to Code of Civil Procedure section 639(a)(5) unless the exceptional circumstances of the particular case require it. A referee must not be appointed at a cost to the parties unless the court can make one of the findings required by Code of Civil Procedure section 639(d)(6). Before an order appointing a referee is issued, the proposed referee must certify that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules.

An order appointing a referee under Code of Civil Procedure section 639, whether based on a motion of a party or on the court's own motion, must be in writing and must address all of the matters required by Code of Civil Procedure section 639. If the referee is a member of the State Bar, the order must include the referee's State Bar number. The referee's certification that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules must be attached to the order. When the issue of economic hardship is raised before the commencement of the referee's services, the court must determine a fair and reasonable apportionment of reference costs. The court may modify its order as to the apportionment and may consider a recommendation by the referee as a factor in determining any modification.

(Subd (c) adopted effective July 1, 2001.)

(d) [Selecting the referee] The court must appoint the referee or referees as provided in Code of Civil Procedure section 640. If the referee is a former California judicial officer, he or she must be an active or inactive member of the State Bar.

(Subd (d) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (b).)

(e) [Disclosure by referee] In addition to any other disclosure required by law, no later than five days prior to the deadline for parties to file a motion for disqualification of the referee under Code of Civil Procedure section 170.6 or, if the referee is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, a referee must disclose to the parties:

(1) Any matter subject to disclosure under subdivisions (D)(2)(f) and (D)(2)(g) of canon 6 of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the referee has or has had with a party, attorney, or law firm in the instant case, including the number and nature of any other proceedings in the past 24 months in which the referee has been privately compensated by a party, attorney, law firm, or insurance company in the instant case for any services, including, but not limited to, service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (e) adopted effective July 1, 2001.)

(f) [Objection to reference] Participation in the selection procedure under subdivision (d) does not constitute a waiver of grounds for objection to the appointment under section 641 of the Code of Civil Procedure, or objection to the rate or apportionment of compensation of the referee, but any objection must be made with reasonable diligence. Any objection to the appointment of a person as a referee must be in writing and must be filed and served upon all parties and the referee.

(Subd (f) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (c); previously amended effective January 1, 1996.)

(g) [Use of court facilities] A reference ordered pursuant to section 639 of the Code of Civil Procedure entitles the parties to the use of court facilities and court personnel to the extent provided in the order of reference. The proceedings may be held in a private facility, but if so, the private facility must be open to the public upon request of any person.

(Subd (g) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (d).)

(h) [Discovery referees] When a referee is appointed under section 639(a)(5) of the Code of Civil Procedure to assist in the resolution of a discovery dispute:

(1) The order appointing the referee must clearly state whether the referee is being appointed for all discovery purposes or only for limited purposes.

(2) The referee is authorized to set the date, time, and place for all hearings determined by the referee to be necessary, to direct the issuance of subpoenas, to preside over hearings, to take evidence, and to rule on objections, motions, and other requests made during the course of the hearing.

(Subd (h) amended and relettered effective July 1, 2001; adopted effective July 1, 1993, as subd (e).)

(i) [Copies to office of presiding judge] A copy of the order appointing the referee, the referee's report under Code of Civil Procedure section 643, and any order of the court concerning the compensation of the referee must be forwarded to the office of the presiding judge of the court. On a monthly basis, the presiding judge must forward copies of these orders and reports to the Reference Research Project at the Administrative Office of the Courts.

(Subd (i) adopted effective July 1, 2001.)

Rule 244.2 amended effective July 1, 2001; adopted effective July 1, 1993; previously amended effective January 1, 1996.

Drafter's Notes:
2001—See note following rule 244.

Rule 244.5. [Repealed 1985]

Adopted effective January 1, 1973; amended effective January 1, 1978, July 1, 1978, January 1, 1979, July 1, 1979, November 10, 1979, and January 1, 1980; repealed effective January 1, 1985. See rules 205, 206.

Rule 245. [Repealed 1985]

Adopted effective January 1, 1949; amended effective January 1, 1957, April 1, 1962, and January 1, 1973; repealed effective January 1, 1985. See rule 214.

Rule 245.5. Superior court sessions held at municipal and justice court locations under Government Code section 69753

(a) A civil action or proceeding may be heard at a municipal or justice court location pursuant to Government Code section 69753 unless a party objects to the place of hearing by motion to the presiding judge or sole judge of the superior court. The motion shall be served and filed within 15 days after the clerk or a party mails to the moving party a notice that the case is assigned to the municipal or justice court location but no later than two days before the date set for the moving party's first appearance at that location.

(b) A criminal action may be heard at a municipal or justice court location pursuant to section 69753 of the Government Code if each party's written consent is filed. The defendant's consent shall state that the defendant has been advised of and understands the right to have the action heard at a regular superior court location and agrees that the matter may be heard at the specified municipal or justice court location.

Rule 245.5 as adopted effective January 1, 1983.

Rule 246. [Repealed 1985]

Adopted effective January 1, 1949; repealed effective January 1, 1985. The repealed rule related to distribution of business in counties.

Rule 247. [Repealed 1985]

Adopted effective January 1, 1949; amended effective April 1, 1962; repealed effective January 1, 1985. The repealed rule related to distribution of business in counties having more than eight judges.

Rule 248. [Repealed 1985]

Adopted effective January 1, 1949; repealed effective January 1, 1985. The repealed rule related to distribution of criminal business in Los Angeles and San Francisco counties.

Rule 249. [Renumbered 2003]

Rule 250. [Renumbered 1991]

Rule 250 amended and renumbered rule 470, effective January 1, 1991; adopted effective January 1, 1972; previously amended effective July 1, 1972, and January 1, 1977.

Rule 251. Notification of appeal rights in juvenile cases

In juvenile court proceedings in which the minor is found to be a person described by section 300, 601, or 602 of the Welfare and Institutions Code after a contested issue of fact or law, the juvenile court judge or referee, after making his order at the conclusion of the dispositional hearing or an order changing or modifying a previous disposition at the conclusion of a hearing on a supplemental petition, shall advise, either orally or in writing, the minor and, if present, his parent, guardian or adult relative of any right to appeal from such order, of the necessary steps and time for taking an appeal, and of the right of an indigent person to have counsel appointed by the reviewing court.

Rule 251 amended effective July 1, 1978; adopted effective July 1, 1973.

Rule 252. [Renumbered 1991]

Rule 252 amended and renumbered rule 472, effective January 1, 1991; adopted effective January 1, 1977.

Rule 260. [Renumbered 2001]

Rule 260 renumbered rule 4.500 effective January 1, 2001; adopted and amended effective January 1, 1982.

Rule 270. Emancipation of minors

(a) [Petition] A petition for declaration of emancipation of a minor shall be submitted on Judicial Council form MC-300. Only the minor may petition the court for emancipation, and the petition may be filed in the county in which the minor can provide a verifiable residence address. The petitioner shall complete and attach to the petition Judicial Council form MC-306—Emancipation of Minor—Income and Expense Declaration.

(b) [Dependents and wards of the juvenile court] Petitions to emancipate a child who is a dependent or ward of the juvenile court shall be filed in juvenile court.

(c) [Court] The petition to emancipate a minor other than a dependent or ward of the juvenile court shall be filed and heard in juvenile court or other superior court department so designated by local rule or by order of the presiding judge.

(d) [Filing Fee] Unless waived, the petitioner shall pay the filing fee as specified. The ability or inability to pay the filing fee is not in and of itself evidence of the financial responsibility of the minor as required for emancipation.

(e) [Declaration of emancipation without hearing] If the court finds that all notice and consent requirements have been met or waived, and that emancipation is not contrary to the best interests of the petitioner, the court may grant the petition without hearing. The presiding judge of the superior court shall develop a protocol for the screening, evaluation, or investigation of petitions.

(f) [Time limits] The clerk of the court in which the petition is filed shall immediately provide or direct the petitioner to provide the petition to the court. Within thirty days from the filing of the petition, the court shall either

(i) grant the petition; or

(ii) deny the petition; or

(iii) set a hearing on the petition to be conducted within 30 days thereafter.

The clerk shall immediately provide the petitioner with an endorsed-filed copy of the court's order.

(g) [Notice] If the court orders the matter set for hearing, the clerk shall notify the district attorney of the time and date of the hearing, which shall be within 30 days of the order prescribing notice and setting for hearing. The petitioner is responsible for notifying all other persons to whom the court requires notice.

Rule 270 adopted effective July 1, 1994.

Drafter's Notes
1994—Following the recommendation of the Family and Juvenile Standing Advisory Committee, the council (1) added rules 270 and 1437 on emancipation procedures; (2) added rule 1424 on guidelines for Court Appointed Special Advocate (CASA) programs, and repealed section 24.5 of the Standards of Judicial Administration; (3) amended rule 1463 on selection of a permanent plan to conform to statutory procedures and clarify procedures; and (4) amended rule 1465 on hearings subsequent to a permanent plan to clarify procedures on terminating guardianships established under section 366.25 or 366.26 of the Welfare and Institutions Code.

Rule 298. Telephone appearance

(a) [Application] This rule applies to all general civil cases as defined in rule 200.1(2) and to unlawful detainer and probate proceedings.

(Subd (a) amended effective January 1, 2003; previously repealed and adopted effective July 1, 1998; previously amended effective Janury 1, 1999, and January 1, 2001.)

(b) [General provision] Except as provided in (c), a party may appear by telephone in any conference or hearing~~,~~ at which witnesses are not expected to be called to testify.

(Subd (b) amended effective January 1, 2003; previously repealed and adopted effective July 1, 1998; previously amended effective July 1, 1999.)

(c) [Exceptions] A personal appearance is required for the following:

(1) Settlement conferences, unless the court orders otherwise;

(2) Case management conferences, unless the court permits telephone appearances at those conferences; and

(3) Any hearing or conference for which the court, in its discretion, determines that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case. The court must make this determination on a case-by-case basis.

(Subd (c) amended effective January 1, 2003; adopted effective July 1, 1998 (former subd (c) relettered as subd (g); previously amended effective July 1, 2002.)

(d) [Notice by party]

(1) A party choosing to appear by telephone at a hearing under this rule must either

(A) place the phrase "Telephone Appearance" below the title of the moving or opposing papers or

(B) at least five court days before the appearance, notify the court and all other parties of the party's intent to appear by telephone. If the notice is oral, it must be given either in person or by telephone. If the notice is in writing, it must be given by filing a "Notice of Intent to Appear by Telephone" with the court at least five court days before the hearing and by serving the notice at the same time on all other parties by personal delivery, facsimile transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(2) If a party that has given notice that it intends to appear by telephone subsequently chooses to appear in person, the party must so notify the court and all other parties that have appeared in the action, by telephone, at least two court days before the hearing.

(Subd (d) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999, and July 1, 1999.)

(e) [Notice by court] After a party has requested a telephone appearance under (d), if the court requires the personal appearance of the party, the court must notify all parties by telephone at least one court day before the hearing. In courts using a telephonic tentative ruling system for law and motion matters, court notification that parties must appear in person may be given as part of the court's tentative ruling on a specific law and motion matter if that notification is given one court day before the hearing.

(Subd (e) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999.)

(f) [Private vendor; charges for service] A court may provide teleconferencing for court appearances by entering into a contract with a private vendor. The

contract may provide that the vendor may charge the party appearing by telephone a reasonable fee, specified in the contract, for its services.

(Subd (f) amended effective January 1, 2003; adopted effective July 1, 1998.)

(g) [Audibility and procedure] Each court must ensure that the statements of participants are audible to all other participants and that the statements made by a participant are identified as being made by that participant.

(Subd (g) amended effective January 1, 2003; adopted as subd (f) effective March 1, 1988; previously relettered as subd (c) effective January 1, 1989, and as subd (g) effective July 1, 1998.)

(h) [Reporting] All proceedings involving telephone appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

(Subd (h) amended effective January 1, 2003; adopted effective July 1, 1998.)

(i) [Conference call provider] A court, by local rule, may designate a particular conference call provider that must be used for telephone appearances.

(Subd (i) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999.)

(j) [Information on telephone appearances] Each court must publish notice providing parties with the particular information necessary for them to appear by telephone at conferences and hearings in that court under this rule.

(Subd (j) amended effective January 1, 2003.)

Rule 298 amended effective Janaury 1, 2003; adopted effective March 1, 1988; previously amended effective January 1, 1989, July 1, 1998, January 1, 1999, July 1, 1999, January 1, 2001; and July 1, 2002.

Drafter's Notes

1988—Recent legislation requires the Judicial Council to conduct a pilot project allowing appearances by telephone in nonevidentiary law and motion hearings in 10 superior courts selected by the council (Gov. Code, § 68070.1). Rule 298 implements the project and designates the project courts. The selected counties are Contra Costa, Fresno, Imperial, Marin, Mariposa, Modoc, Orange, San Bernardino, Santa Barbara, and Santa Clara.

Rule 298 allows local courts to charge a fee for the costs associated with teleconferencing procedures and requires each court to ensure that all the participants in the teleconferencing can be heard.

To assist the counties in implementing the telephone appearance procedure (Gov. Code § 68070.1), the council (1) made telephone appearance rules applicable to all counties and removed certain restrictions (rule 298); (2) provided a method for a party to indicate an intention to appear by telephone (rule 825); and (3) recommended local procedures and criteria for equipment (section 21of the Standards of Judicial Administration).

1998—Amended rule 298, governing civil cases and probate proceedings in superior court, gives counsel the option of appearing by telephone in conferences and nonevidentiary law and motion and probate hearings. Courts are permitted to contract with a private teleconferencing provider, which may charge counsel a fee for its services.

January 1999—Technical amendments were made to rule 298, which governs telephone appearances in superior court.

July 1999—Amendments to rules 298 and 598 require each court to provide information to the public regarding the particular procedures to be used in that court to make a telephone appearance.

2001—See note following rule 200.

2002—See note following rule 201.7.

Rule 299. Judicial robes

The judicial robe required by section 68110 of the Government Code must be black, must extend in front and back from the collar and shoulders to below the knees, and must have sleeves to the wrists. It must conform to the style customarily worn in courts in the United States.

(Subd (d) amended as an unlettered subdivision effective January 1, 2003; adopted as subd (e) effective September 24, 1959; relettered as subd (d) effective July 1, 1963.)

Rule 299 amended and renumbered effective January 1, 2003; adopted as rule 249 effective January 1, 1949; previously amended effective September 24, 1959 and July 1, 1963.

DIVISION I-A. Sentencing Rules for the Superior Courts

Title Two, Pretrial and Trial Rules—Division I-A, Sentencing Rules for the Superior Courts; Division, consisting of Rules 401-451, was adopted effective July 1, 1977, and renumbered Division III effective January 1, 1984.

DIVISION II. Civil Law and Motion Rules

Title Two, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules; Division adopted by the Judicial Council effective January 1, 1984. Former Division II, consisting of Rules 501-560, Renumbered Division IV effective January 1, 1984.

Drafter's Notes

1983—A comprehensive set of rules governing civil law and motion practice and procedure in all state trial courts became effective January 1, 1984. The rules were adopted by the Judicial Council following a three-year study.

The rules were developed as the result of numerous complaints received from attorneys regarding variations in practice and procedure from county to county. A Judicial Council advisory committee was appointed by Chief Justice Rose Elizabeth Bird to study the problem.

The rules are based on the recommendations of that committee.

CHAPTER 1. General Provisions

Title Two, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 1, General Provisions; adopted effective January 1, 1984.

Rule 301. Applicability

The rules in this division apply to proceedings in civil law and motion, as defined in rule 303(a), and to discovery proceedings in family law and probate.

Rule 301 amended effective January 1, 2002; adopted effective January 1, 1984; previously amended effective July 1, 1984, and July 1, 1997.

Drafter's Notes:
2002—See note following rule 200.

Rule 302. [Repealed 2000]

Rule 302 repealed effective July 1, 2000; adopted effective July 1, 1997.

Rule 302.5. [Repealed 1999]

Rule 302.5 amended effective July 1, 1998; adopted effective August 21, 1997, and repealed effective January 1, 1999.

1998—Rule 302.5 creates an exception to rule 302, which preempts all local rules on the form and format of papers, to allow the Los Angeles Superior court to enforce a local rule requiring blue-backs on documents filed by attorneys. It was amended effective July 1, 1998, to extend the repeal date of the rule to January 1, 1999. The extension will preserve the status quo in Los Angeles until the council has had an opportunity to adopt a rule replacing the blue-back requirement.

Rule 303. Definitions and construction

(a) [Law and motion defined] "Law and motion" includes any proceedings:

(1) On application before trial for an order, except for causes arising under the Welfare and Institutions Code, the Probate Code, the Family Code, or Code of Civil Procedure sections 527.6, 527.7, and 527.8; or

(2) On application for an order regarding the enforcement of judgment, attachment of property, appointment of a receiver, obtaining or setting aside a judgment by default, writs of review, mandate and prohibition, a petition to compel arbitration, and enforcement of an award by arbitration.

(Subd (a) amended effective July 1, 1997; adopted effective January 1, 1984.)

(b) [Application of other rules] Rules 235 and 249 apply to proceedings under this division.

(Subd (b) adopted effective January 1, 1984.)

(c) [Application to demurrers] Unless the context or subject matter otherwise requires, these rules apply to demurrers.

(Subd (c) adopted effective July 1, 1984.)

Rule 303 amended effective July 1, 1984; adopted effective January 1, 1984.]

Rule 305. [Repealed 2000]

Rule 305 repealed effective January 1, 2000; adopted effective January 1, 1984.

Drafter's Notes
2000—Amended rule 317 conforms to the new time limits for serving and filing papers that become effective January 1, 2000, as a result of the recent amendment of the Code of Civil Procedure section 1005. Rule 305 is repealed and its provision on shortening time moved to rule 317.

Rule 307. Assignment of matters

Except as provided in rule 375, the presiding judge or a judge designated by the presiding judge shall hear proceedings in law and motion.

Rule 307 adopted effective January 1, 1984.

Rule 309. Notice of determination of submitted matters

When the court rules on a demurrer or motion or makes an order or renders a judgment in a matter it has taken under submission, the clerk shall forthwith notify the parties of the ruling, order or judgment. The notification, which shall specifically identify the matter ruled upon, may be given by mailing the parties a copy of the ruling, order or judgment, and it shall constitute service of notice only if the clerk is required to give notice pursuant to Code of Civil Procedure section 664.5. The failure of the clerk to give notification shall not extend the time provided by law for performing any act except as provided in rule 2(a) or rule 122(a).

In a case having multiple parties, a clerk's notification made pursuant to this rule, or any notice of a ruling or order served by a party, shall name the moving party, and the party against whom relief was requested, and specifically indentify the particular motion, demurrer or other matter ruled upon.

Rule 309 adopted effective January 1, 1984.

Drafter's Notes
1983—Based on the former rules 204 and 504 that were repealed effective January 1, 1984.

Rule 310. [Repealed 1984]

Adopted effective January 1, 1979; repealed effective January 1, 1984. See rule 363.

CHAPTER 2. Format and Filing of Papers

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 2, Format and Filing of Papers; adopted effective January 1, 1979.

Rule 311. General format

(a) [Opening paragraph] A notice of motion shall state in the opening paragraph the nature of the order being sought and the grounds for issuance of the order.

(b) [Date of hearing; other documents] The first page of each paper shall specify immediately below the number of the case

(1) the date, time, and location, if ascertainable, of any scheduled hearing and the name of the hearing judge, if ascertainable;

(2) the nature or title of any attached document other than an exhibit;

(3) the date of filing of the action; and

(4) the trial date, if set. Documents bound together shall be consecutively paginated.

(Subd (b) amended effective July 1, 1997.)

(c) [Reference to previously filed papers] Any paper previously filed shall be referred to by date of execution and title.

(d) [Binding] All pages of each document and exhibit shall be attached together at the top by a method that permits pages to be easily turned and the entire content of each page to be read.

(Subd (d) adopted effective July 1, 1997.)

(e) [Exhibits] Each exhibit shall be separated by a hard 8-½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. An index to exhibits shall be provided. Pages from a single deposition and associated exhibits shall be designated as a single exhibit. Exhibits written in a foreign language shall be accompanied by an English translation, certified under oath by a qualified interpreter.

(Subd (e) adopted effective July 1, 1997.)

Rule 311 adopted effective January 1, 1984.

Rule 312. Motions, demurrers, and other pleadings

(a) [Motions and demurrers—required papers] The papers filed in support of a motion or demurrer shall consist of at least the following:

(1) the motion or demurrer itself,

(2) a notice of hearing on the motion or demurrer, and

(3) a memorandum of points and authorities in support of the motion or demurrer.

These papers may be filed as separate documents or may be combined in one or more documents if the party filing a combined pleading specifies these items separately in the caption of the combined pleading. Other papers may be filed in support of a motion or demurrer, such as declarations, exhibits, appendices, or other documents or pleadings.

(b) [Motion—required elements] A motion shall

(1) identify the party or parties bringing the motion;

(2) name the parties to whom it is addressed;

(3) briefly state the basis for the motion and the relief sought; and

(4) if a pleading is challenged, state the specific portion challenged.

(c) [Memorandum of points and authorities] A memorandum of points and authorities filed in support of a motion or demurrer shall comply with rule 313.

(d) [Motion in limine] Notwithstanding subdivisions (a) through (c), a motion in limine filed before or during trial need not be accompanied by a notice of hearing. The timing and place of the filing and service of the motion shall be at the discretion of the trial judge. The motion shall comply with the requirements of rules 201, 313, 315, and 316.

(e) [Additional requirements for motions and demurrers] In addition to the requirements of this rule, a motion or demurrer relating to the subjects specified in chapter 4 of this division (rule 325 et seq.) shall comply with any additional requirements in that chapter.

(f) [Amended pleadings] Amendments to pleadings and amended pleadings shall comply with rule 327.

(g) [Causes of action—form] Each separate cause of action or affirmative defense in a pleading shall specifically identify its number (e.g., "First cause of Action"); its nature (e.g., "for Fraud"); the party asserting it, if more than one party is represented in the pleading (e.g., "by Plaintiff Jones"); and the party or parties to whom it is directed (e.g., "against Defendant Smith").

(h) [Captions of pleadings] Except for an original complaint, petition, cross-complaint, or cross-petition, every pleading, motion, and demurrer may bear the "short caption" of the case, consisting of the name of the first party on each side. All cross-complaints or cross-petitions shall be collectively referenced at the bottom of the short caption as "and Related Cross-Actions." If a pleading, motion, or demurrer pertains to a particular cross-complaint or cross-petition, the caption shall identify the particular cross-complaint or cross-petition using only the names of the first-named cross-complainant or cross-petitioner and first-named cross-defendant or cross-respondent in the original cross-complaint or cross-petition.

Rule 312 adopted effective July 1, 1997.

Rule 313. Memorandum of points and authorities

(a) [Notice of motion and demurrer—memorandum of points and authorities] A party filing a demurrer or a notice of motion, except for a new trial, shall serve and file therewith a memorandum of points and authorities to be relied upon. The absence of the memorandum may be construed by the court as an admission that the motion or special demurrer is not meritorious and cause for its denial and, in the case of a demurrer, as a waiver of all grounds not supported.

(Subd (a) adopted effective January 1, 1984.)

(b) [Contents of memorandum] A memorandum of points and authorities shall contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced.

(Subd (b) adopted effective January 1, 1984.)

(c) [Case citation format] A case citation shall include the official report volume and page number and year of decision. No other citations shall be required.

(Subd (c) amended effective January 1, 1992; previously amended effective July 1, 1984.)

(d) [Length of memorandum; requirements for lengthy memorandum] Except in a summary judgment or summary adjudication motion, no opening or responding memorandum of points and authorities shall exceed 15 pages. In a summary judgment or summary adjudication motion, no opening or responding memorandum of points and authorities shall exceed 20 pages. No reply or closing memorandum of points and authorities shall exceed 10 pages in length. The page limit shall not take into account exhibits, declarations, attachments, a table of contents, a table of authorities, or the proof of service. A party may apply to the court ex parte but with written notice of the application to the other parties, at least 24 hours before the memorandum is due, for permission to file a longer memorandum. The application shall state reasons why the argument cannot be made within the stated limit. A memorandum of points and authorities that exceeds 10 pages shall include a table of contents and table of authorities. A memorandum of points and authorities that exceeds 15 pages shall also include an opening summary of argument. A memorandum that exceeds the page limits of these rules shall be filed and considered in the same manner as a late-filed paper.

(Subd (d) amended effective January 1, 1992; previously amended effective July 1, 1984.)

(e) [Pagination of memorandum] Notwithstanding any other rule, the pagination of a memorandum of points and authorities that includes a table of contents

and a table of authorities shall be governed by this rule. In the case of such a memorandum, the caption page or pages shall not be numbered; the pages of the tables shall be numbered consecutively using lower case Roman numerals starting on the first page of the tables; and the pages of the text shall be numbered consecutively using Arabic numerals starting on the first page of the text.

(Subd (e) adopted effective July 1, 2000.)

(f) [Use of *California Style Manual*] The style used in a memorandum of points and authorities shall be that set forth in the *California Style Manual*, or that set forth in the most recent edition of the *Uniform System of Citation*, at the option of the party filing the document. The same style shall be used consistently throughout the memorandum. If any authority other than California cases, statutes, constitutional provisions or state or local rules is cited, a copy shall be attached to the papers in which the authorities are cited and tabbed as exhibits as required by rule 311(e). If a California case is cited before the time it is published in the Advance Sheets of the Official Reports, a copy of that case shall also be attached and be tabbed as required by rule 311(e).

(Subd (f) relettered effective July 1, 2000; previously amended effective July 1, 1997; adopted effective January 1, 1992, as subd (e).)

(g) [Attachments] To the extent practicable, all supporting memoranda of points and authorities, declarations, and affidavits shall be attached to the notice of motion.

(Subd (g) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (f).)

(h) [Exhibit references] All references to exhibits or declarations in supporting or opposing papers shall reference the number or letter of the exhibit, the specific page, and, if applicable, the paragraph or line number.

(Subd (h) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (g).)

(i) [Requests for judicial notice] Any request for judicial notice shall be made in a separate document listing the specific items for which notice is requested and shall comply with rule 323(c).

(Subd (i) amended effective January 1, 2003; adopted effective July 1, 1997 as subd (h); relettered effective July 1, 2000.)

(j) [Proposed orders or judgments] If a proposed order or judgment is submitted, it shall be lodged and served with the moving papers but shall not be attached to them.

(Subd (j) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (i).)

Rule 313 amended effective January 1, 2003; previously amended effective July 1, 1984, January 1, 1992, July 1, 1997, and July 1, 2000.

Drafter's Notes

1983—Subdivision (a) is based on former rules 203(a) and 503(a) with additions from former rules 202(a) and 502(a).

1992—To achieve greater statewide uniformity in practice, the council adopted amendments and additions to law and motion rules. The council amended rule 313(d) to correct an erroneous reference to a 15-page limit for a memorandum of points and authorities; added rule 316 to state what portions of a deposition should be filed when deposition testimony is attached as an exhibit and to require highlighting of the applicable testimony and that deposition page numbers appear at the bottom of the page; added new subdivision (c) to rule 317 to provide that the court indicate in the minutes or order if it did not consider a paper filed after the deadline; added new subdivision (d) to rule 317 to specify the time the clerk's office closes as the last time in a day a paper may be filed or a request made and still be considered timely; amended rule 321(c) and (d) to clarify how a party gives notice of nonappearance at a hearing and the effect of this notice; and added rule 324.5 to require each court that does not regularly provide reporting of law and motion proceedings to give notice of this fact and of the procedure for obtaining reporting of a particular hearing.

July 2000—See note following rule 201.

Rule 315. Miscellaneous papers

(a) [Caption of declaration or affidavit] The caption of the declaration or affidavit shall state the name of the declarant or affiant and shall specifically identify the motion or other proceeding which it supports or opposes.

(b) [Substitution of part as attorney] A substitution of a party as attorney in propria persona shall include the mailing address and telephone number of the party.

Rule 315 adopted effective January 1, 1984.

Rule 316. Deposition testimony as an exhibit

(a) [Title page] The first page of any deposition used as an exhibit shall state the name of the deponent and the date of the deposition.

Adopted effective January 1, 1992.

(b) [Deposition pages] Other than the title page, the exhibit shall contain only the relevant pages of the transcript. The original page number of any deposition page shall be clearly visible at the bottom of the page.

Adopted effective January 1, 1992.

(c) [Highlighting of testimony] The relevant portion of any testimony in the deposition shall be marked in a manner that calls attention to the testimony.

Adopted effective January 1, 1992.

Rule 316 adopted effective January 1, 1992.

Rule 317. Time for filing and service of motion papers

(a) [In general] Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed in accordance with Code of Civil Procedure section 1005.

(Subd (a) amended effective January 1, 2000.)

(b) [Order shortening time] The court**,** on its own motion or on application for an order shortening time supported by a declaration showing good cause, may prescribe shorter times for the filing and service of papers than the times specified in Code of Civil Procedure section 1005.

(Subd (b) adopted effective January 1, 2000.)

(c) [Time for filing proof of service] Proof of service of the moving papers shall be filed no later than five calendar days before the time appointed for the hearing.

(Subd (c) relettered effective January 1, 2000; adopted effective January 1, 1984, as subd (b).)

(d) [Filing of late papers] No paper shall be rejected for filing on the ground that it was untimely submitted for filing. If the court, in its discretion, refuses to consider a late filed paper, the minutes or order shall so indicate.

(Subd (d) amended and relettered effective January 1, 2000; adopted effective January 1, 1992, as subd (c).)

(e) [Computation of time] A paper submitted before the close of the clerk's office to the public on the day the paper is due is deemed timely filed.

(Subd (e) relettered effective January 1, 2000; adopted effective January 1, 1992, as subd (d).)

Rule 317 amended effective January 1, 2000; previously amended effective January 1, 1992; adopted effective January 1, 1984.

Drafter's Notes
1992—See note following rule 313.

2000—Amended rule 317 conforms to the new time limits for serving and filing papers that become effective January 1, 2000, as a result of the recent amendment of the Code of Civil Procedure, section 1005. Rule 305 is repealed and its provision on shortening time moved to rule 317.

Rule 319. Place and manner of filing

(a) [Papers filed in clerk's office] Unless otherwise provided by local rule, all papers relating to a law and motion proceeding shall be filed in the clerk's office.

(b) [Requirements for lodged material] Material lodged with the clerk shall be accompanied by an addressed envelope with sufficient postage for mailing the material. After determination of the matter, the material may be mailed by the clerk to the party lodging it.

Rule 319 adopted effective January 1, 1984.

CHAPTER 3. Hearings

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 3, Hearings; adopted effective January 1, 1984.

Rule 321. Time of hearing
Rule 323. Evidence at hearing
Rule 324. Tentative ruling
Rule 324.5. Reporting of proceedings

Rule 321. Time of hearing

(a) [General schedule] The clerk must post a general schedule showing the days and departments for holding each type of law and motion hearing.

(Subd (a) amended effective January 1, 2003.)

(b) [Duty to notify if matter not to be heard] The moving party must immediately notify the court if a matter will not be heard on the scheduled date.

(Subd (b) amended effective January 1, 2003.)

(c) [Notice of nonappearance] A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless the court orders otherwise. The court must rule on the motion as if the party had appeared.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 1992.)

(d) [Action if no party appears] If a party fails to appear at a law and motion hearing without having given notice under (c), the court may take the matter off calendar, to be reset only upon motion, or may rule on the matter.

(Subd (d) amended effective January 1, 2003; previously amended and relettered effective January 1, 1992.)

Rule 321 amended effective January 1, 2003; adopted effective January 1, 1984; previously amended effective January 1, 1992.

Drafter's Notes
1992—See note following rule 313.

Rule 323. Evidence at hearing

(a) [Restrictions on oral testimony] Evidence received at a law and motion hearing must be by declaration, affidavit, or request for judicial notice without testimony or cross-examination, except as allowed in the court's discretion for good cause shown.

(Subd (a) amended effective January 1, 2003.)

(b) [Request to present oral testimony] A party seeking permission to introduce oral evidence, except for oral evidence in rebuttal to oral evidence presented by the other party, must file, no later than three court days before the hearing, a written statement stating the nature and extent of the evidence proposed to be introduced and a reasonable time estimate for the hearing. When the statement is filed less than five court days before the hearing, the filing party must serve a copy on the other parties in a manner to assure delivery to the other parties no later than two days before the hearing.

(Subd (b) amended and relettered effective January 1, 2003; adopted as part of subd (a) effective January 1, 1984.)

(c) [Judicial notice] A party requesting judicial notice of material under Evidence Code sections 452 or 453 must provide the court and each party with a copy of the material. If the material is part of a file in the court in which the matter is being heard, the party must (1) specify in writing the part of the court file sought to be judicially noticed; and (2) make arrangements with the clerk to have the file in the courtroom at the time of the hearing.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (b) effective January 1, 1984.)

Rule 323 amended effective January 1, 2003; adopted effective January 1, 1984.

Rule 324. Tentative rulings

(a) [Tentative ruling procedures] A trial court that offers a tentative ruling procedure in civil law and motion matters shall follow one of the following procedures:

(1) [*Notice of intent to appear required*] The court shall make its tentative ruling available by telephone and also, at the option of the court, by any other method designated by the court, by no later than 3:00 p.m. the court day before the scheduled hearing. If the court desires oral argument, the tentative ruling shall so direct. The tentative ruling may also note any issues on which the court wishes the parties to provide further argument. If the court has not directed argument, oral argument shall be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day prior to the hearing of the party's intention to appear. A party shall notify all other parties by telephone or in person. The court shall accept notice by telephone and, at its discretion, may also designate alternative methods by which a party may notify the court of the party's intention to appear. The tentative ruling shall become the ruling of the

court if the court has not directed oral argument by its tentative ruling and notice of intent to appear has not been given.

(2) [*No notice of intent to appear required*] The court shall make its tentative ruling available by telephone and also, at the option of the court, by any other method designated by the court, by a specified time prior to the hearing. The tentative ruling may note any issues on which the court wishes the parties to provide further argument at the hearing. This procedure shall not require the parties to give notice of intent to appear, and the tentative ruling shall not automatically become the ruling of the court if such notice is not given. The tentative ruling, or such other ruling as the court may render, shall not become the final ruling of the court until the hearing.

(Subd (a) amended effective July 1, 2000.)

(b) [No other procedures permitted] Other than following one of the tentative ruling procedures authorized in subdivision (a), courts shall not issue tentative rulings except (1) by posting a calendar note containing tentative rulings on the day of the hearing, or (2) by announcing the tentative ruling at the time of oral argument.

(Subd (b) repealed and adopted effective July 1, 2000.)

(c) [Notice of procedure] A court that follows one of the procedures described in subdivision (a) shall so state in its local rules. The local rule shall specify the telephone number for obtaining the tentative rulings and the time by which the rulings will be available. If a court or a branch of a court adopts a tentative ruling procedure, that procedure shall be used by all judges in the court or branch who issue tentative rulings. This rule does not require any judge to issue tentative rulings.

(Subd (c) amended effective July 1, 2000.)

Rule 324 amended effective July 1, 2000; adopted effective July 1, 1992.

Drafter's Notes

1992—On the recommendation of the Advisory Committee on Local Rules, new rule 324 was adopted to provide that a court must follow a uniform timetable if it wishes to use a tentative ruling procedure that requires notice of appearance at oral argument. Each court that used this procedure would be required to notify the Judicial Council of that decision 30 days in advance of the effective date of either January 1 or July 1. A court could not impose this requirement unless all the judges hearing law and motion matters in a court or branch court imposed it.

Also on the recommendation of the Advisory Committee on Local Rules, new rule 391 was adopted to provide a statewide procedure for attorney-prepared orders in law and motion matters unless the court orders use of a court-prepared order or minute order.

July 2000—See note following rule 201.

Rule 324.5. Reporting of proceedings

A court that does not regularly provide for reporting or electronic recording of hearings on motions shall so state in its local rules. The rules shall also provide a procedure by which a party may obtain a reporter or a recording of the proceedings in order to provide an official verbatim transcript.

Rule 324.5 adopted effective January 1, 1992.

Drafter's Notes
1992—See note following rule 313.

CHAPTER 4. Particular Motions

PART 1. Pleading Motions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 1, Pleading Motions; adopted January 1, 1984.

Rule 325. Demurrers

(a) [Grounds separately stated] Each ground of demurrer shall be in a separate paragraph and shall state whether it applies to the entire complaint, cross-complaint, or answer, or to specified causes of action or defenses.

(b) [Notice of hearing] A party filing a demurrer shall serve and file therewith a notice of hearing which shall specify a hearing date in accordance with the provisions of Code of Civil Procedure section 1005. Demurrers shall be set for hearing not more than 35 days following the filing of the demurrer or on the first date available to the court thereafter. For good cause shown, the court may

order the hearing held on an earlier or later day on notice prescribed by the court.

(Subd (b) amended effective July 1, 2000.)

(c) [Caption] A demurrer shall state on the first page immediately below the number of the case the name of the party filing the demurrer and the name of the party whose pleading is the subject of the demurrer.

(d) [Failure to appear at hearing] When a demurrer is regularly called for hearing and there is no appearance by one party, the demurrer shall be disposed of on the merits at the request of the party appearing unless for good cause the hearing is continued. Failure to appear in support of a special demurrer may be construed by the court as an admission that the demurrer is not meritorious and as a waiver of all grounds thereof. If neither party appears, the demurrer may be disposed of upon its merits or dropped from the calendar, to be restored upon notice or upon terms as the court may deem proper, or the hearing may be continued to a time as the court shall order.

(e) [Leave to answer or amend] Following a ruling on a demurrer, unless otherwise ordered, leave to answer or amend within 10 days shall be deemed granted, except for actions in forcible entry, forcible detainer or unlawful detainer in which case five calendar days shall be deemed granted.

(f) [Dismissal following failure to amend] A motion to dismiss the entire action and for entry of judgment after expiration of the time to amend following the sustaining of a demurrer may be made by ex parte application to the court under section 581(f)(2) of the Code of Civil Procedure.

If an amended pleading is filed after the time allowed, then an order striking the amended pleading must be obtained by noticed motion pursuant to section 1010 of the Code of Civil Procedure.

(Subd (f) amended effective July 1, 1995.)

(g) [Demurrer not directed to all causes of action] A demurrer to a cause of action may be filed without answering other causes of action. Unless otherwise ordered, defendant shall have 10 days to move to strike, demur, or otherwise plead to the complaint or the remaining causes of action following

(1) the overruling of the demurrer,

(2) amendment of the complaint or the expiration of the time to amend if the demurrer was sustained with leave to amend, or

(3) the sustaining of the demurrer if the demurrer was sustained without leave to amend.

(Subd (g) adopted effective July 1, 1984.)

Rule 325 amended effective July 1, 2000; previously amended July 1, 1984 and July 1, 1995; adopted effective January 1, 1984.

Drafter's Notes
1984—Subdivision (b) is based on former rules 202(b) ad 502(b); subdivision (d) is based on former rules 202(c) and 502(c); subdivision (d) is based on former rules 202(d) and 502(d). All of the former rules were repealed effective January 1, 1984.

1995—On the recommendation of the Appellate Standing Advisory Committee, the council amended:

. . . . .(2) rule 325(f) to conform the rule to existing law to permit the court to order dismissal of an action (a) ex parte after expiration of the time to amend following the sustaining of a demurrer if no amended pleading is filed, or (b) after noticed motion to first strike an amended pleading if an amended pleading is filed after the time allowed.

July 2000—See note following rule 201.

Rule 326. Motions for change of venue

Following denial of a motion to transfer under section 396b of the Code of Civil Procedure, unless otherwise ordered, 30 calendar days shall be deemed granted defendant to move to strike, demur, or otherwise plead if the defendant has not previously filed a response. If a motion to transfer is granted, 30 calendar days shall be deemed granted from the date the receiving court mails notice of receipt of the case and its new case number.

Rule 326 amended effective July 1, 1984; adopted effective January 1, 1984.

Rule 327. Amended pleadings and amendments to pleadings

(a) [Contents of motion] A motion to amend a pleading before trial must:

(1) Include a copy of the proposed amendment or amended pleading, which must be serially numbered to differentiate it from previous pleadings or amendments;

(2) State what allegations in the previous pleading are proposed to be deleted, if any, and where, by page, paragraph, and line number, the deleted allegations are located; and

(3) State what allegations are proposed to be added to the previous pleading, if any, and where, by page, paragraph, and line number, the additional allegations are located.

(Subd (a) amended effective January 1, 2002.)

(b) [Supporting declaration] A separate declaration must accompany the motion and must specify:

(1) The effect of the amendment;

(2) Why the amendment is necessary and proper;

(3) When the facts giving rise to the amended allegations were discovered; and

(4) The reasons why the request for amendment was not made earlier.

(Subd (b) adopted effective January 1, 2002.)

(c) [Form of amendment] The court may deem a motion to file an amendment to a pleading to be a motion to file an amended pleading and require the filing of the entire previous pleading with the approved amendments incorporated into it.

(Subd (c) adopted effective January 1, 2002.)

(d) [Requirements for amendment to a pleading] An amendment to a pleading must not be made by alterations on the face of a pleading except by permission of the court. All alterations must be initialed by the court or the clerk.

(Subd (d) amended and relettered effective January 1, 2002; adopted as subd (b) effective January 1, 1984.)

Rule 327 amended effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes

1983—Subdivision (b) is based on former rules 205 and 505, repealed effective January 1, 1984.

2002—The amended rule clarifies that late amendments, which may result in trial postponement, can be made only on a proper showing of the reasons why the amendments could not have been made earlier. The rule specifies (1) the required contents of the declaration or declarations supporting a motion to amend pleadings, and (2) the form of amendment.

Rule 329. Motions to strike

A notice of motion to strike a portion of a pleading shall quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count or defense. Specifications in a notice shall be numbered consecutively. A notice of motion to strike shall be given within the time allowed to plead, and if a demurrer is interposed, concurrently therewith, and shall be noticed for hearing and heard at the same time as the demurrer.

Rule 329 adopted effective January 1, 1984.

Drafter's Notes
1983—Based on former rules 203(c) and 503(c).

Rule 330. Good faith settlement and dismissal

A motion or application for determination of good faith settlement may include a request to dismiss a pleading or a portion of a pleading. The notice of motion or application for determination of good faith settlement shall list each party and pleading or portion of pleading affected by the settlement and the date on which the affected pleading was filed.

Rule 330 adopted effective July 1, 1999.

Drafter's Notes
1999—This new rule provides that, when a motion for determination of a good faith settlement includes a request to dismiss a pleading or a portion of the pleading, the notice of motion must identify each party and pleading or portion of a pleading affected by the settlement and the date the affected pleading was filed.

PART 2. Discovery and Discovery Motions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 2, Discovery and Discovery Motions; adopted effective January 1, 1984.

Rule 331. Format of supplemental and further discovery

Rule 333. Oral depositions by telephone, videoconference, or other remote electronic means
Rule 335. Format of discovery motions
Rule 337. Service of papers on nonparty deponent
Rule 339. [Repealed 1987]
Rule 341. Sanctions for failure to provide discovery

Rule 331. Format of supplemental and further discovery

(a) [Supplemental interrogatories and responses, etc.] In each set of

(1) supplemental interrogatories,

(2) supplemental responses to interrogatories,

(3) amended answers to interrogatories, and

(4) further responses to interrogatories, inspection demands, and admission requests,

the following shall appear in the first paragraph immediately below the title of the case: the identity of the propounding, demanding, or requesting party, the identity of the responding party, the set number being propounded or responded to, and the nature of the paper.

(Subd (a) amended effective July 1, 1987; adopted effective January 1, 1984; previously amended effective January 1, 1986.)

(b) [Sequence of responses] Each supplemental or further response and each amended answer shall be identified by the same number or letter and be in the same sequence as the corresponding interrogatory, inspection demand, or admission request, but the text shall not be repeated.

(Subd (b) amended effective July 1, 1987; adopted effective January 1, 1984; previously amended effective January 1, 1986.)

Rule 331 amended effective January 1, 1987; adopted effective January 1, 1984; previously amended effective January 1, 1986.

Drafter's Notes
1983—Subdivision (a) is based on former rules 201(g)(1) and 501(f)(1); subdivision (b) is based on former rules 201(g)(2) and 501(f)(2).

1985—The council adopted an amendment to rule 331 to include requests for identification and production of documents or tangible things. This amendment will conform rule 331 to the format required by rule 335 for discovery motions and will promote uniform discovery documents.

Rule 333. Oral depositions by telephone, videoconference, or other remote electronic means

(a) [Taking depositions] Any party may take an oral deposition by telephone, videoconference, or other remote electronic means, provided:

(1) Notice is served with the notice of deposition or the subpoena;

(2) That party makes all arrangements for any other party to participate in the deposition in an equivalent manner. However, each party so appearing must pay all expenses incurred by it or properly allocated to it;

(3) Any party may be personally present at the deposition without giving prior notice.

(b) [Appearing and participating in depositions] Any party may appear and participate in an oral deposition by telephone, videoconference, or other remote electronic means, provided:

(1) Written notice of such appearance is served by personal delivery or facsimile at least three days before the deposition;

(2) The party so appearing makes all arrangements and pays all expenses incurred for the appearance.

(c) [Party deponent's appearance] A party deponent must appear at his or her deposition in person and be in the presence of the deposition officer.

(d) [Non-party deponent's appearance] A non-party deponent may appear at his or her deposition by telephone, videoconference, or other remote electronic means with court approval upon a finding of good cause and no prejudice to any party. The deponent must be sworn in the presence of the deposition officer or by any other means stipulated to by the parties or ordered by the court. Any party may be personally present at the deposition.

(e) [Court orders] Upon motion by any person, the court in a specific action may make such other orders as it deems appropriate.

Rule 333 adopted effective January 1, 2003.

Rule 335. Format of discovery motions

(a) [Separate statement required] Any motion involving the content of a discovery request or the responses to such a request shall be accompanied by a separate statement. The motions that require a separate statement include:

(1) a motion to compel further responses to requests for admission;

(2) a motion to compel further responses to interrogatories;

(3) a motion to compel further responses to a demand for inspection of documents or tangible things;

(4) a motion to compel answers at a deposition;

(5) a motion to compel or to quash the production of documents or tangible things at a deposition;

(6) a motion for medical examination over objection; and

(7) a motion for issue or evidentiary sanctions.

(Subd (a) amended effective July 1, 2001; previously amended effective July 1, 1987, January 1, 1992, and January 1, 1997.)

(b) [Separate statement not required] A separate statement is not required when no response has been provided to the request for discovery.

(Subd (b) adopted effective July 1, 2001.)

(c) [Contents of separate statement] A separate statement is a separate document filed and served with the discovery motion that sets forth all the information necessary to understand each discovery request and all the responses to it that are at issue. The separate statement shall be full and complete so that no person is required to review any other document in order to determine the full request and the full response. Material shall not be incorporated into the separate statement by reference. The separate statement shall include—for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested—the following:

(1) the text of the request, interrogatory, question, or inspection demand;

(2) the text of each response, answer, or objection, and any further responses or answers;

(3) a statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute;

(4) if necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it;

(5) if the response to a particular discovery request is dependent on the response given to another discovery request, or if the reasons a further response to a particular discovery request is deemed necessary are based on the response to some other discovery request, the other request and the response to it must be set forth; and

(6) if the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them shall summarize each relevant document.

(Subd (c) repealed and adopted effective July 1, 2001.)

(d) [Identification of interrogatories, demands, or requests] A motion concerning interrogatories, inspection demands, or admission requests shall identify the interrogatories, demands, or requests by set and number.

(Subd (d) relettered effective July 1, 2001; adopted as subd (b) effective January 1, 1984; previously amended effective July 1, 1987; previous subd (d) repealed effective July 1, 2001.)

Rule 335 amended effective July 1, 2001; adopted effective January 1, 1984; previously amended effective July 1, 1987, January 1, 1992, and January 1, 1997.

Drafter's Notes

1997—Rule 335 was amended to permit the incorporation by reference of identical responses to discovery requests.

2001—Rules 335 and 341 (Discovery rules). Amended rule 335 identifies more clearly and completely the motions for which separate statements are required and the content of the separate statements. New rule 341 expressly provides that a court may impose sanctions in favor of a party who files a motion to compel discovery, even if the opposing party files no opposition or provides discovery after the motion was filed.

Rule 337. Service of papers on nonparty deponent

A written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent shall be personally served on the nonparty deponent unless the nonparty deponent agrees to accept service by mail at an address specified on the deposition record.

Rule 337 amended effective July 1, 1987; adopted effective January 1, 1984.

Rule 339. [Repealed 1987]

Adopted effective January 1, 1984; repealed effective July 1, 1987. See CCP §2023(a)(7).

Drafter's Notes
Notwithstanding the official citation in the repeal note above, the better reference would appear to be CCP §2023(a)(9).

Rule 341. Sanctions for failure to provide discovery

(a) [Sanctions despite no opposition] The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed.

(b) [Failure to oppose not an admission] The failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded.

Rule 341 adopted effective July 1, 2001.

Drafter's Notes
2001—See note following rule 335.

Former rule:
Former rule 341 adopted effective January 1, 1984; repealed effective July 1, 1987. See CCP §2023(c).

PART 3. Summary Judgment Motions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 3, Summary Judgment Motions; adopted effective January 1, 1984.

Rule 342. Motion for summary judgment or summary adjudication
Rule 343. Objections to evidence
Rule 345. Form of written objections to evidence

Rule 342. Motion for summary judgment or summary adjudication

(a) [Motion] As used in this rule, "motion" refers to either a motion for summary judgment or a motion for summary adjudication.

(b) [Motion for summary adjudication] If made in the alternative, a motion for summary adjudication may make reference to and depend upon the same evidence submitted in support of the summary judgment motion. If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts.

(Subd (b) amended effective January 1, 2002.)

(c) [Documents in support of motion] The motion must contain and be supported by the following documents:

(1) Notice of motion by *[moving party]* for summary judgment or summary adjudication or both;

(2) Separate statement of undisputed material facts in support of *[moving party's]* motion for summary judgment or summary adjudication or both;

(3) Memorandum of points and authorities in support of *[moving party's]* motion for summary judgment or summary adjudication or both;

(4) Evidence in support of *[moving party's]* motion for summary judgment or summary adjudication or both; and

(5) Request for judicial notice in support of *[moving party's]* motion for summary judgment or summary adjudication or both (if appropriate).

(Subd (c) amended effective January 1, 2002.)

(d) [Separate statement in support of motion] The Separate Statement of Undisputed Material Facts in support of a motion must separately identify each cause of action, claim, issue of duty or affirmative defense, and each supporting material fact claimed to be without dispute with respect to the cause of action, claim, issue of duty, or affirmative defense. In a two-column format, the statement must state in numerical sequence the undisputed material facts in the first column and the evidence that establishes those undisputed facts in the second column. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and line numbers.

(Subd (d) amended effective January 1, 2002.)

(e) [Documents in opposition to motion] The opposition to a motion must consist of the following documents, separately stapled and titled as shown:

(1) *[Opposing party's]* memorandum of points and authorities in opposition to *[moving party's]* motion for summary judgment or summary adjudication or both;

(2) *[Opposing party's]* separate statement of undisputed material facts in opposition to *[moving party's]* motion for summary judgment or summary adjudication or both;

(3) *[Opposing party's]* evidence in opposition to *[moving party's]* motion for summary judgment or summary adjudication or both (if appropriate); and

(4) *[Opposing party's]* request for judicial notice in opposition to *[moving party's]* motion for summary judgment or summary adjudication or both (if appropriate).

(Subd (e) amended effective January 1, 2002.)

(f) [Opposition to motion; content of separate statement] Each material fact claimed by the moving party to be undisputed must be set out verbatim on the left side of the page, below which must be set out the evidence said by the moving party to establish that fact, complete with the moving party's references to exhibits. On the right side of the page, directly opposite the recitation of the moving party's statement of material facts and supporting evidence, the response must unequivocally state whether that fact is “disputed” or “undisputed.” An opposing party who contends that a fact is disputed must

state, on the right side of the page directly opposite the fact in dispute, the nature of the dispute and describe the evidence that supports the position that the fact is controverted. That evidence must be supported by citation to exhibit, title, page, and line numbers in the evidence submitted.

(Subd (f) amended effective January 1, 2002.)

(g) [Documentary evidence] If evidence in support of or in opposition to a motion exceeds 25 pages, the evidence must be in a separately bound volume and must include a table of contents.

(Subd (g) amended effective January 1, 2002.)

(h) [Format for separate statements] Supporting and opposing separate statements in a motion for summary judgment must follow this format:

Supporting statement:

Undisputed Material Facts:	Supporting Evidence:
1. Plaintiff and defendant entered into a written contract for the sale of widgets.	Jackson declaration, 2:17–21; contract, Ex. A to Jackson declaration.
2. No widgets were ever received.	Jackson declaration, 3:7–21.

Opposing statement:

Undisputed Material Facts and Alleged Supporting Evidence:	Response and Evidence:
1. Plaintiff and defendant entered into a written contract for the sale of widgets. Jackson declaration, 2:17–21; contract, Ex. A to Jackson declaration.	Undisputed.
2. No widgets were ever received. Jackson declaration, 3:7–21.	Disputed. The widgets were received in New Zealand on August 31, 2001. Baygi declaration, 7:2–5.

Supporting and opposing separate statements in a motion for summary adjudication must follow this format:

Supporting statement:

ISSUE 1—THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF EXPRESSLY ASSUMED THE RISK OF INJURY

Undisputed Material Facts:	Supporting Evidence:
1. Plaintiff was injured while mountain climbing on a trip with Any Company USA.	Plaintiff's deposition, 12:3–4.
2. Before leaving on the mountain-climbing trip, plaintiff signed a complete waiver of liability.	Smith declaration, 5:4–5; waiver of liability, Ex. A to Smith declaration.

Opposing statement:

ISSUE 1—THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF EXPRESSLY ASSUMED THE RISK OF INJURY

Undisputed Material Facts and Alleged Supporting Evidence:	Response and Evidence:
1. Plaintiff was injured while mountain climbing on a trip with Any Company USA. Plaintiff's deposition, 12:3–4.	Undisputed.
2. Before leaving on the mountain-climbing trip, plaintiff signed a complete waiver of liability. Smith declaration, 5:4–5; waiver of liability, Ex. A to Smith declaration.	Disputed. Plaintiff did not sign the waiver of liability; the signature on the waiver is forged. Jones declaration, 3:6–7.

(Subd (h) amended effective January 1, 2002; previously amended effective January 1, 1999.)

(i) [Request for electronic version of separate statement] Upon request, a party must within 3 days provide to any other party or the court an electronic version of its separate statement. The electronic version may be provided in any form upon which the parties agree. If the parties are unable to agree on the form, the responding party must provide to the requesting party the electronic version of the separate statement which it used to prepare the document filed with the court. Under this provision, a party is not required to create an electronic version or any new version of any document for the purpose of transmission to the requesting party.

(Subd (i) adopted effective January 1, 2002.)

Rule 342 amended effective January 1, 2002; adopted effective July 1, 1997; previously amended effective January 1, 1999.

Drafter's Notes:
2002—Rule 342 includes a new subdivision (i), which requires a party, upon request, to provide to any other party or the court within 3 days an electronic version of its separate statement. Rules 342, 343, and 345 have been amended to replace "shall" with "must."

Rule 343. Objections to evidence

A party desiring to make objections to evidence in the papers on a motion for summary judgment must either submit objections in writing under rule 345 or make arrangements for a court reporter to be present at the hearing.

Rule 343 amended effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes:
2002—See note following rule 342.

Rule 345. Form of written objections to evidence

A written objection to evidence in support of or in opposition to a motion for summary judgment must state the page and line number of the document to which objection is made, and state the grounds of objection with the same specificity as a motion to strike evidence made at trial. Written objections must be filed and served no later than 4:30 p.m. on the third court day preceding the hearing.

Rule 345 amended effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes:
2002—See note following rule 342.

PART 4. Writs and Receivers

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 4, Writs and Receivers; adopted effective January 1, 1984.

Rule 347. Lodging of record in administrative mandate cases

The party intending to use a part of the administrative record in a case brought under section 1094.5 of the Code of Civil Procedure shall lodge that part of the record at least five days before the hearing.

Rule 347 adopted effective January 1, 1984.

Rule 349. [Renumbered 2002]

Rule 349 amended and renumbered rule 1900 effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes
1983—Based on the former rules 238 and 526 that were repealed effective January 1, 1984.

Rule 351. [Renumbered 2002]

Rule 351 amended and renumbered rule 1901 effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes
1983—Based on the former rules 239 and 527 that were repealed effective January 1, 1984.

Rule 353. [Renumbered 2002]

Rule 353 amended and renumbered effective January 1, 2002; adopted effective January 1, 1984.

Drafter's Notes
1983—Based on the former rules 240 and 528 that were repealed effective January 1, 1984.

Rule 354. Receivership rules

Receiverships are governed by the rules in Title Five, Division VIa (beginning at rule 1900).

Rule 354 adopted effective January 1, 2002.

Rule 355. Stay of driving license suspension

A request for a stay of a suspension of a driving license shall be accompanied by a copy of petitioner's driving record from the Department of Motor Vehicles.

Rule 355 adopted effective January 1, 1984.

PART 5. Injunctions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 5, Injunctions; adopted effective January 1, 1984.

Rule 359. Preliminary injunctions and bonds

(a) [Manner of application and service] A party requesting a preliminary injunction may give notice of the request to the opposing or responding party either by serving a noticed motion under Code of Civil Procedure section 1005 or by obtaining and serving an order to show cause ("OSC"). An OSC shall be used when a temporary restraining order ("TRO") is sought, or if the party against whom the preliminary injunction is sought has not appeared in the

action. If the responding party has not appeared, the OSC shall be served in the same manner as a summons and complaint.

(Subd (a) amended effective July 1, 1999; adopted effective July 1, 1997.)

(b) [Filing of complaint or obtaining of court file] If the action is initiated the same day a TRO or an OSC is sought, the complaint shall be filed first. The moving party shall provide a file-stamped copy of the complaint to the judge who will hear the application. If an application for a TRO or an OSC is made in an existing case, the moving party shall request that the court file be made available to the judge hearing the application.

(Subd (b) amended effective July 1, 1999; adopted effective July 1, 1997.)

(c) [Form of OSC and TRO] The OSC and TRO shall be stated separately, with the OSC stated first. The restraining language sought in an OSC and a TRO shall be separately stated in the OSC and the TRO and may not be incorporated by reference. The OSC shall describe the injunction to be sought at the hearing. The TRO shall describe the activities to be enjoined pending the hearing. A proposed OSC shall contain blank spaces for the time and manner of service on responding parties, the date on which the proof of service must be delivered to the court hearing the OSC, a briefing schedule, and if applicable, the expiration date of the TRO.

(Subd (c) amended effective July 1, 1999; adopted effective July 1, 1997.)

(d) [Personal attendance] TROs will be granted only if the moving party or counsel for the moving party is personally present.

(Subd (d) relettered effective July 1, 1999; adopted as subd (e) effective July 1, 1997; repealed as [Proof of service] effective July 1, 1999.)

(e) [Previous applications] An application for a TRO or an OSC shall state whether there has been any previous application for similar relief and, if so, the result of the application.

(Subd (e) amended and relettered effective July 1, 1999; adopted as subd (f) effective July 1, 1997.)

(f) [Undertaking] Notwithstanding rule 391, whenever an application for a preliminary injunction is granted, a proposed order shall be presented to the judge for signature, with an undertaking in the amount ordered, within one court day after the granting of the application or within the time ordered.

Unless otherwise ordered, any restraining order previously granted shall remain in effect during the time allowed for presentation for signature of the order of injunction and undertaking. If the proposed order and the undertaking required are not presented within the time allowed, the TRO may be vacated without notice. All bonds and undertakings shall comply with rule 381.

(Subd (f) amended and relettered effective July 1, 1999; previously amended and relettered July 1, 1997; adopted effective January 1, 1984.)

(g) [Ex parte temporary restraining orders] Applications for ex parte temporary restraining orders are governed by rule 379.

(Subd (g) adopted effective July 1, 1999.)

Rule 359 amended effective July 1, 1999; previously amended effective July 1, 1997; adopted effective January 1, 1984.

Drafter's Notes
1984—Based on the former rules 237 and 525.

1999—The amendments clarify the rule on temporary restraining orders and preliminary injunctions, delete a provision that requires filing of proof of service of papers supporting a TRO at least 24 hours before the hearing, and add a new provision stating that TROs are governed by rule 379 on ex parte applications.

Rule 361. Requirements for injunction in certain cases

A petition for an injunction to limit picketing, restrain real property encroachments, or protect easements shall depict by drawings, plot plans, photographs or other appropriate means, or shall describe in detail the premises involved including, if applicable, the length and width of the frontage on a street or alley, the width of sidewalks, and the number, size, and location of entrances.

Rule 361 adopted effective January 1, 1984.

Rule 363. Civil harassment and workplace violence

(a) [Scheduling of hearing] On the filing of a petition for an injunction under Code of Civil Procedure section 527.6 or 527.8, a hearing shall be set in accordance with the requirements of subdivision (d) of section 527.6 or subdivision (f) of section 527.8.

(Subd (a) amended effective July 1, 1995.)

(b) [Temporary restraining order] A temporary restraining order may be granted in accordance with the provisions of Code of Civil Procedure section 527.6(c) or 527.8(e), but unless otherwise ordered no memorandum of points and authorities is required.

(Subd (b) amended effective January 1, 2002; previously amended effective July 1, 1995.)

(c) [Service of petition and orders] The petition and order to show cause, and any temporary restraining order, shall be personally served on the defendant. Service shall be made in the manner provided by law for personal service of summons in civil actions.

(Subd (c) amended effective January 1, 1993.)

(d) [Response by defendant] A response by defendant shall be filed and delivered to plaintiff or plaintiff's attorney no later than 48 hours before the hearing.

Rule 363 amended effective January 1, 2002; adopted effective January 1, 1984; previously amended effective January 1, 1993, July 1, 1995, and January 1, 2000.

Drafter's Notes
1983—Based on former rule 310 that was repealed effective January 1, 1984.

1993—The council adopted changes in rule 363 and the harassment forms to eliminate the requirement that harassment petitions be served 10 days before the hearing unless an order shortening time is granted.

1995—The council amended rule 363 to include proceedings under the Workplace Violence Safety Act (Code of Civil Procedure section 527.8) under the general provisions concerning civil harassment. The council also adopted forms and instructional materials implementing this act.

2000—An amendment to rule 363 changes the title from "Civil harassment" to "Civil harassment and workplace violence" to indicate that the rule applies to section 527.8 (workplace violence) as well as to section 527.6 (civil harassment) of the Code of Civil Procedure.

2002—See note following rule 200.

Rule 364. Minors seeking restraining orders

A minor, accompanied by a duly appointed and acting guardian ad litem, may be permitted to appear in court without counsel for the limited purpose of obtaining or opposing

(1) an injunction or temporary restraining order or both to prohibit harassment pursuant to Code of Civil Procedure section 527.6,

(2) an injunction or temporary restraining order or both against violence or a credible threat of violence in the workplace pursuant to Code of Civil Procedure section 527.8,

(3) a protective order pursuant to Family Code section 6200 et seq., or

(4) a protective order pursuant to Family Code sections 7710 and 7720.

In making the determination concerning allowing appearance without counsel the court should consider whether the minor and the guardian have divergent interests.

Rule 364 adopted effective July 1, 1995.

Drafter's Notes
1995—On the recommendation of the Family and Juvenile Law Standing Advisory Committee, the council adopted:

. . . (2) rule 364 to permit, in the court's discretion, appearance of a guardian ad litem for a minor in a domestic violence case.

PART 6. Multiple Party Cases

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 6, Multiple Party Cases; adopted effective January 1, 1984.

Rule 365. [Renumbered 2002]
Rule 367. Consolidation of cases

Rule 365. [Renumbered 2002]

Rule 365 amended and renumbered rule 1860 effective January 1, 2002; adopted effective January 1, 1984.

Rule 367. Consolidation of cases

(Untitled subdivision repealed effective July 1, 1999.)

(a) [Requirements of motion] A notice of motion to consolidate must list all named parties in each case, the names of those who have appeared, and the names of their respective attorneys of record. The notice of motion must contain the captions of all the cases sought to be consolidated, with the lowest numbered case listed first. The motion to consolidate shall be deemed a single motion for the purpose of determining the appropriate filing fee. One copy of the notice of motion must be filed in each case sought to be consolidated. Points and authorities, declarations, and other supporting papers shall be filed only in the lowest numbered case. The motion must be served on all attorneys of record and all nonrepresented parties in all of the cases sought to be consolidated and a proof of service filed as part of the motion.

(Subd (a) adopted effective July 1, 1999.)

(b) [Lead case] Unless otherwise ordered in granting the motion to consolidate, the lowest numbered case in the consolidated case shall be the lead case.

(Subd (b) adopted effective July 1, 1999.)

(c) [Order] An order granting or denying all or part of a motion to consolidate shall be filed in each case sought to be consolidated. If the motion is granted for all purposes including trial, any subsequent document shall be filed only in the lead case.

(Subd (c) adopted effective July 1, 1999.)

(d) [Caption and case number] All documents filed in the consolidated case shall include the caption and case number of the lead case, followed by the case numbers of all of the other consolidated cases.

(Subd (d) adopted effective July 1, 1999.)

Rule 367 amended effective July 1, 1999; adopted effective January 1, 1984.

Drafter's Notes

1999—Amended rule 367 provides a clearer, more detailed set of procedures and other requirements to be followed when cases are consolidated.

PART 7. Miscellaneous Motions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 4, Particular Motions—Part 7, Miscellaneous Motions; adopted effective January 1, 1984.

Rule 369. Motion to grant lien on cause of action

A motion that a lien be granted on a cause of action, right to relief, or judgment shall be accompanied by an authenticated record of the judgment upon which the judgment creditor relies and an affidavit or declaration as to the identity of the party involved and the amount due.

Rule 369 adopted effective January 1, 1984.

Rule 371. Motion concerning arbitration

A petition to compel arbitration or to stay proceedings pursuant to Code of Civil Procedure sections 1281.2 and 1281.4 shall set forth, in addition to other required allegations, the provisions of the written agreement and the paragraph that provides for arbitration. The provisions shall be set forth verbatim or a copy shall be attached to the petition and incorporated by reference.

Rule 371 adopted effective January 1, 1984.

Rule 372. Motion for discretionary dismissal after two years for delay in prosecution

(a) [Discretionary dismissal two years after filing] The court on its own motion or on motion of the defendant may dismiss an action under article 4 (§583.410 et seq.) of chapter 1.5 of title 8 of part 2 of the Code of Civil Procedure for

delay in prosecution if the action has not been brought to trial or conditionally settled within two years after the action was commenced against the defendant. If the court intends to dismiss an action on its own motion, the clerk shall set a hearing on the dismissal and mail notice to all parties at least 20 days before the hearing date.

"Conditionally settled" means

(i) a settlement agreement conditions dismissal on the satisfactory completion of specified terms that are not to be fully performed within two years after the filing of the case, and

(ii) notice of the settlement is filed with the court as provided in rule 225.

(Subd (a) adopted effective January 1, 1990.)

(b) [Purpose of rule] This rule is adopted under sections 583.410(b) and 583.420(a)(2)(B) of the Code of Civil Procedure to reduce unnecessary delay in the resolution of litigation and to improve the administration of justice.

(Subd (b) adopted effective January 1, 1990.)

Rule 372 adopted effective January 1, 1990.

Drafter's Notes

1989—The Judicial Council of California has added new rule 372 to the California Rules of Court to permit discretionary dismissal for delay in prosecution if an action is not brought to trial or conditionally settled within two years. The effective date of the new rule is delayed for seven months to January 1, 1990. The rule will apply to new and existing civil cases.

The purpose of the rule is to reduce unnecessary delay in the resolution of litigation and to improve the administration of justice.

The rule was adopted under authority of sections 583.410(b) and 583.420(a)(2)(B) of the Code of Civil Procedure. The same motion procedure and factors to be considered under the present three-year discretionary dismissal statute will apply to the two-year rule (see rule 373). The new rule will help courts identify their "active" caseload and keep track of cases over which they have continuing management responsibility under policies declared in the Trial Court Delay Reduction Act and the Standards of Judicial Administration recommended by the Judicial Council.

If the court intends to dismiss an action on its own motion, the clerk will set a hearing on the dismissal and mail notice to all parties at least 20 days before the hearing date.

Rule 373. Motion to dismiss for delay in prosecution

(a) [Notice of motion] A party seeking dismissal of a case pursuant to article 4 (§583.410 et seq.) of chapter 1.5 of title 8 of part 2 of the Code of Civil Procedure shall serve and file a notice of motion at least 45 days before the date set for hearing of the motion, and the party may, with the memorandum of points and authorities, serve and file an affidavit or declaration stating facts in support of the motion. The filing of the notice of motion shall not preclude the opposing party from further prosecution of the case to bring it to trial.

(Subd (a) amended effective January 1, 1986; adopted effective January 1, 1984.)

(b) [Written opposition] Within 15 days after service of the notice of motion, the opposing party may serve and file written opposition, a memorandum of points and authorities, and a supporting affidavit or declaration stating facts showing why the motion should be denied. The failure of the opposing party to serve and file written opposition may be construed by the court as an admission that the motion is meritorious and the court may grant the motion without a hearing on the merits.

(Subd (b) adopted effective January 1, 1984.)

(c) [Response to opposition] Within 15 days after service of the written opposition, if any, the moving party may serve and file a response, a supplemental memorandum of points and authorities, and an affidavit or declaration stating facts in support of the motion.

(Subd (c) adopted effective January 1, 1984.)

(d) [Reply] Within five days after service of the response, if any, the opposing party may serve and file a reply.

(Subd (d) adopted effective January 1, 1984.)

(e) [Relevant matters] In ruling on the motion the court shall consider all matters relevant to a proper determination of the motion, including the court's file in the case and the affidavits and declarations and supporting data submitted by the parties and, where applicable, the availability of the moving party and other essential parties for service of process; the diligence in seeking to effect service of process; the extent to which the parties engaged in any settlement negotiations or discussions; the diligence of the parties in pursuing discovery or other pretrial proceedings, including any extraordinary relief sought by either party; the nature and complexity of the case; the law applicable to the

case, including the pendency of other litigation under a common set of facts or determinative of the legal or factual issues in the case; the nature of any extensions of time or other delay attributable to either party; the condition of the court's calendar and the availability of an earlier trial date if the matter was ready for trial; whether the interests of justice are best served by dismissal or trial of the case; and any other fact or circumstance relevant to a fair determination of the issue. The court shall be guided by the policies set forth in section 583.130 of the Code of Civil Procedure.

(Subd (e) amended effective January 1, 1986; adopted effective January 1, 1984.)

(f) [Court action] The court may grant or deny the motion or, where the facts warrant, the court may continue or defer its ruling on the matter pending performance by either party of any conditions relating to trial or dismissal of the case that may be required by the court to effectuate substantial justice.

(Subd (f) adopted effective January 1, 1984.)

Rule 373 amended effective January 1, 1986; adopted effective January 1, 1984.

Drafter's Notes
1983—Based on the former rules 203.5 and 503.5 that were repealed effective January 1, 1984.

1985—To implement revised statutes governing discretionary dismissal of civil actions (Stats. 1984, ch. 1705, operative January 1, 1986) as provided in section 583.410(b) of the Code of Civil Procedure, the Judicial Council amended rule 373(a) to retain present procedures and make them apply to all discretionary types of dismissal. In response to a new statutory provision permitting dismissal for failure to serve within two years of filing the action, subdivision (e) of the rule was amended to add diligence in effecting service to the criteria the court must consider in ruling on a motion to dismiss. The clause "or by imposing conditions on its dismissal or trial" was deleted in view of its substantive inclusion in section 583.430, and a reference to the policies in section 583.130 was added. The amendments are effective January 1, 1986. The council took no action to adopt a two-year discretionary dismissal rule for particular courts as authorized by Code of Civil Procedure section 583.420(a)(2)(B). Technical amendments were made to several rules to correct references to the prior version of section 583. Rules affected are 218, 221, 820, 1233, 1239, and 1514.

Rule 374. [Repealed 2003]

Rule 375. Motions concerning trial dates

(a) [Motions and grounds for continuances] Continuances before or during trial in civil cases are disfavored. The date set for trial shall be firm. Unless the case has previously been assigned for all purposes to a specific judge or department,

a motion for continuance before trial shall be made to the judge supervising the master calendar or, if there is no master calendar, to the judge in whose department the case is pending. If the case has been assigned for all purposes to a specific judge or department, the motion shall be made before the assigned judge or in the assigned department. Except for good cause, the motion shall be made on written notice to all other parties. The notice shall be given and motion made promptly on the necessity for the continuance being ascertained. A continuance before or during trial shall not be granted except on an affirmative showing of good cause under the standards recommended in section 9 of the Standards of Judicial Administration. This rule shall not prevent cases not subject to the Trial Court Delay Reduction Act from being removed from the civil active list as provided in rule 223.

(Subd (a) amended effective January 1, 1995.)

(b) [Motions to advance or reset] Unless the case has previously been assigned for all purposes to a specific judge or department, motions to advance, reset, or specially set cases for trial shall be made before the presiding judge or the presiding judge's designee. If the case has been assigned for all purposes to a specific judge or department, the motion shall be made before the assigned judge or in the assigned department. A motion to advance, reset, or specially set a case for trial shall not be granted, except on notice, the filing of a declaration showing good cause, and the appearance by the moving party at the hearing on the motion.

(Subd (b) amended effective January 1, 1995.)

Rule 375 amended effective January 1, 1995; adopted effective January 1, 1984; previously amended January 1, 1985.

Drafter's Notes

1983—Subdivision (a) is based on the former rules 224 and 512; subdivision (b) is based on the former rules 225 and 513. The former rules were repealed effective January 1, 1984.

1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (9) rule 375 to clarify that a motion to continue, advance, or reset a trial shall be made before the assigned judge or in the assigned department if the case has been assigned for all purposes to a specific judge or department; otherwise the motion shall be made to the judge supervising the master calendar; . . .

Rule 376. Motion to be relieved as counsel

(a) [Notice] A notice of motion and motion to be relieved as counsel under Code of Civil Procedure section 284(2) shall be directed to the client and shall be

made on the *Notice of Motion and Motion to Be Relieved as Counsel—Civil* form (MC-051).

(Subd (a) amended effective July 1, 2000.)

(b) [Memorandum of points and authorities] Notwithstanding any other rule of court, no memorandum of points and authorities is required to be filed or served with a motion to be relieved as counsel.

(Subd (b) adopted effective July 1, 2000.)

(c) [Declaration] The motion to be relieved as counsel shall be accompanied by a declaration on the *Declaration in Suppor*t *of Attorney's Motion to Be Relieved as Counsel—Civil* form (MC-052). The declaration shall state in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure section 284(2) is brought instead of filing a consent under Code of Civil Procedure section 284(1).

(Subd (c) relettered and amended effective July 1, 2000; adopted effective July 1, 1984, as subd (b).)

(d) [Service] The notice of motion and motion and the declaration shall be served on the client and on all other parties who have appeared in the case. The notice may be by personal service or mail. If the notice is served on the client by mail under Code of Civil Procedure section 1013, it shall be accompanied by a declaration stating facts showing that either (1) the service address is the current residence or business address of the client or (2) the service address is the last known residence or business address of the client and the attorney has been unable to locate a more current address after making reasonable efforts to do so within 30 days prior to the filing of the motion to be relieved. "Current" means that the address was confirmed within 30 days prior to the filing of the motion to be relieved. Merely demonstrating that the notice was sent to the client's last known address and was not returned will not, by itself, be sufficient to demonstrate that the address is current. If the service is by mail, Code of Civil Procedure section 1011(b) shall apply.

(Subd (d) relettered and amended effective July 1, 2000; previously amended effective July 1, 1991, and January 1, 1996; adopted effective July 1, 1984, as subd (c).)

(e) [Order] The proposed order relieving counsel shall be prepared on the *Order Granting Attorney's Motion to Be Relieved as Counsel—Civil* form (MC-053) and shall be lodged with the court and served on the client with the moving

papers. The order shall specify all hearing dates scheduled in the action or proceeding, including the date of trial, if known. If no hearing date is presently scheduled, the court may set one and specify the date in the order. After the order is signed, a copy of the signed order shall be served on the client and on all parties that have appeared in the case. The court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court.

(Subd (e) relettered and amended effective July 1, 2000; previously amended effective January 1, 1996; adopted effective July 1, 1984, as subd (d).)

Rule 376 amended effective July 1, 2000; previously amended effective January 1, 1996, and July 1, 1991; adopted effective July 1, 1984.

Drafter's Notes

1991—The council amended rule 376 to remove the requirement that counsel check with the Department of Motor Vehicles (DMV) for the client's current address. Rule 376, pertaining to motions to be relieved as counsel, requires that the attorney check with the DMV in an effort to obtain the client's current address. Statutes of 1989, chapter 1213 (Assem. Bill 1779 [Roos]) restricts access to these records. The rule, therefore, was amended to remove this requirement.

1996—This rule was amended to conform to recent legislation that restricts access to addresses maintained by the county registrar of voters and to add unincorporated association, guardian ad litem, personal representative, trustee, guardian, conservator, or other probate fiduciary to the current requirement that an order relieving counsel from representing a corporate client must advise the client that it may participate in the action only through an attorney, with specified exceptions.

July 2000—See note following rule 201.

Rule 377. [Repealed 2003]

Advisory Committee Comment (2003)

Rule 377 on motions for an advisory jury was repealed because it was obsolete and contained unduly burdensome procedures. The repeal of this rule is not intended to prevent a party from requesting an advisory jury. In an appropriate case, a party may request, and the court in its discretion may approve, the use of an advisory jury.

Rule 378. Petition for approval of the compromise of a claim of a minor or incompetent person; order for deposit of funds; and petition for withdrawal

(a) [Petition for approval of the compromise of a claim] A petition for court approval of a compromise or covenant not to sue under Code of Civil Procedure section 372 must comply with rules 7.950, 7.951, and 7.952.

(b) [Order for the deposit of funds and petition for withdrawal] An order for the deposit of funds of a minor or an incompetent person and a petition for the withdrawal of such funds must comply with rules 7.953 and 7.954.

Rule 378 adopted effective January 1, 2002.

Drafter's Notes:
2002—This new set of rules replaces rule 241 with more clear and detailed rules on minors' compromises and new rules on blocked accounts. The accompanying new forms provide parties and the courts with a comprehensive set of uniform, statewide forms for petitions for the settlement of minors' claims and for dealing with blocked accounts.

CHAPTER 5. Miscellaneous Provisions

Title 2, Pretrial and Trial Rules—Division II, Civil Law and Motion Rules—Chapter 5, Miscellaneous Provisions, adopted effective January 1, 1984.

Rule 379. Ex parte applications and orders

(a) [Ex parte application] An ex parte application for an order must be accompanied by an affidavit or a declaration showing:

(1) that, within the applicable time period under (b), the applicant informed the opposing party when and where the application would be made; or

(2) that the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or

(3) that, for reasons specified, the applicant should not be required to inform the opposing party.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 1997.)

(b) [Time of notice; time of notice in unlawful detainer proceedings] A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice provided that the notice given is reasonable.

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1997; previously amended effective July 1, 1999, and July 1, 2000.)

(c) [**Filing and presentation of the ex parte application]** The clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration, notwithstanding the failure of an applicant to comply with the notification requirements in (b).

(Subd (c) adopted effective January 1, 2003.)

(d) [Contents of application]

(1) An ex parte application for an order must state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of such party if known to the applicant.

(2) If an ex parte application for an order has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of any previous applications and the court's actions.

(Subd (d) amended and relettered effective January 1, 2003; adopted as part of subd (b) effective January 1, 1984.)

(e) [Contents of notice and declaration regarding notice]

(1) When notice of an ex parte application is given, the person giving notice must state with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application, and must attempt to determine whether the opposing party will appear to oppose the application.

(2) Every ex parte application must be accompanied by a declaration regarding notice that states:

(A) the notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected; or

(B) why notice should not be required.

(3) If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain:

(A) the exceptional circumstances that justify the shorter notice, or

(B) in unlawful detainer proceedings, why the notice given is reasonable.

(Subd (e) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1997.)

(f) [Required documents] An ex parte application must be in writing and include all of the following:

(1) An application containing the case caption and stating the relief requested;

(2) A declaration in support of the application making the factual showing required under (g);

(3) A competent declaration based on personal knowledge of the notice given under (e);

(4) A memorandum of points and authorities; and

(5) A proposed order.

(Subd (f) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1997.)

(g) [Affirmative factual showing required] An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.

(Subd (g) amended and relettered effective January 1, 2003; adopted as subd (e) effective July 1, 1997.)

(h) [Service of papers] Parties appearing at the ex parte hearing must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made.

(Subd (h) amended and relettered effective January 1, 2003; adopted as subd (f) effective July 1, 1997.)

(i) [Personal appearance requirements] An ex parte application will be considered without a personal appearance of the applicant in the following cases only:

(1) Applications to file a memorandum of points and authorities in excess of the applicable page limit;

(2) Setting of hearing dates on alternative writs and orders to show cause; and

(3) Stipulations by the parties or other orders of the court.

(Subd (i) amended and relettered effective January 1, 2003; adopted as subd (g) effective July 1, 1997.)

Rule 379 amended effective January 1, 2003; adopted effective January 1, 1984; previously amended effective July 1, 1997, July 1, 1999, and July 1, 2000.

Drafter's Notes

1984—Based on former § 15 of the Standards of Judicial Administration (Appendix, Division I) that was repealed January 1, 1984.

1999—The amendment changes the requirement that a party seeking an ex parte order must "give a minimum of 24 hours notice" to a requirement that the party must "notify all parties no later than 10:00 a.m. the court day before" the ex parte appearance.

July 2000—See note following rule 201.

Rule 381. Bonds and undertakings

(a) [Prerequisites to acceptance of corporate sureties] A corporation shall not be accepted or approved as surety on a bond or undertaking unless the following conditions are met:

(1) The Insurance Commissioner has certified the corporation as being admitted to do business in the state as a surety insurer;

(2) There is filed in the office of the clerk a copy, duly certified by the proper authority and attested by the seal of the corporation, of the transcript or record of appointment entitling or authorizing the person or persons purporting to execute the bond or undertaking for and in behalf of the corporation to act in the premises; and

(3) The bond or undertaking has been executed under penalty of perjury as provided in Code of Civil Procedure section 995.630, or the fact of execution of the bond or undertaking by the officer or agent of the corporation purporting to become surety has been duly acknowledged before an officer of this state authorized to take and certify acknowledgements.

(b) [Persons not to act as sureties] An officer of the court or member of the State Bar shall not act as a surety.

(c) [Withdrawal of bonds and undertakings] An original bond or undertaking may be withdrawn from the files and delivered to the party by whom it was filed on order of the court only if all parties interested in the obligation so stipulate, or upon a showing that the purpose for which it was filed has been abandoned without any liability having been incurred.

Rule 381 adopted effective January 1, 1984.

Drafter's Notes
1983—Based on former rules 242 and 530.

Rule 383. Service and filing of notice of entry of dismissal

A party who requests dismissal of an action shall serve on all parties and file notice of entry of the dismissal.

Rule 383 adopted effective January 1, 1984.

Rule 385. Service and filing of notice of change of address

A party or attorney whose address changes while an action is pending shall serve on all parties and file written notice of the change of address.

Rule 385 adopted effective January 1, 1984.

Rule 387. [Renumbered 2003]

Rule 388. Default judgments

(a) [Documents to be submitted] A party seeking a default judgment on declarations shall use mandatory Judicial Council Form 982(a)(6) and shall include in the documents filed with the clerk the following:

(1) Except in unlawful detainer cases, a brief summary of the case identifying the parties and the nature of plaintiff's claim;

(2) Declarations or other admissible evidence in support of the judgment requested;

(3) Interest computations as necessary;

(4) A memorandum of costs and disbursements;

(5) A declaration of nonmilitary status for each defendant against whom judgment is sought;

(6) A proposed form of judgment;

(7) A dismissal of all parties against whom judgment is not sought or an application for separate judgment against specified parties under Code of Civil Procedure section 579, supported by a showing of grounds for each judgment;

(8) Exhibits as necessary; and

(9) A request for attorney fees if allowed by statute or by the agreement of the parties.

(b) [Fee schedule] A court may by local rule establish a schedule of attorney fees to be used by that court in determining the reasonable amount of attorney fees to be allowed in the case of a default judgment.

Rule 388 adopted effective July 1, 2000.

Drafter's notes
July 2000—See note following rule 201.

Rule 389. Periodic payment of judgments against public entities

(a) [Notice of election or hearing] A public entity electing to pay a judgment against it by periodic payments under Government Code section 984 must serve and file a notice of election stipulating to the terms of such payments, or a notice of hearing on such terms, by the earlier of:

(1) 30 days after the clerk sends, or a party serves, notice of entry of judgment; or

(2) 60 days after entry of judgment.

(b) [Time for hearing] Notwithstanding any contrary local rule of practice, a hearing under (a) must be held within 30 days after service of the notice. The court must make an order for periodic payments at the hearing.

Rule 389 adopted effective January 1, 2002.

Advisory Committee Comment

New rule 389 is derived from subdivisions (a) and (b) of former rule 2.5. Subdivision (c) of former rule 2.5 has been moved to rule 2(b).

Rule 391. Preparation of order

(a) [Prevailing party to prepare] Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion shall, within five days of the ruling, mail or deliver a proposed order to the other party for approval as conforming to the court's order. Within five days after the mailing or delivery, the other party shall notify the prevailing party as to whether or not the proposed order is so approved. The opposing party shall state any reasons for disapproval. Failure to notify the prevailing party within the time required shall be deemed an approval. Code of Civil Procedure section 1013, relating to service of papers by mail, does not apply to this rule.

(Subd (a) amended effective July 1, 2000; adopted effective July 1, 1992.)

(b) [Submission of proposed order to court] The prevailing party shall, upon expiration of the five-day period provided for approval, promptly transmit the proposed order to the court together with a summary of any responses of the other parties or a statement that no responses were received.

(Subd (b) amended effective July 1, 2000; adopted effective July 1, 1992.)

(c) [Failure of prevailing party to prepare form] If the prevailing party fails to prepare and submit a proposed order as required by (a) and (b) above, any other party may do so.

(Subd (c) amended effective July 1, 2000; adopted effective July 1, 1992.)

(d) [Motion unopposed] This rule shall not apply if the motion was unopposed and a proposed order was submitted with the moving papers, unless otherwise ordered by the court.

(Subd (d) adopted effective July 1, 2000.)

Rule 391 amended effective July 1, 2000; adopted effective July 1, 1992.

Drafter's Notes
1992—See note following rule 324.

July 2000—See note following rule 201.

DIVISION III. Sentencing Rules for the Superior Courts

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts; Adopted effective July 1, 1977, as Division I-A and renumbered Division III effective January 1, 1984. Former Division III, consisting of Rules 701-790, was renumbered Division V effective January 1, 1984.

Drafter's Notes

1991—At the suggestion of the Advisory Committee on Sentencing, the council adopted a major revision of the sentencing rules (rule 401 et seq.). The primary change was to rearrange the rules so as to follow more closely the actual sentencing process. Other changes attempt to assist the court by enumerating situations where statutory or case law requires statements of a reason, by summarizing the statutory and case law on sentencing for violent sex crimes, and by eliminating or grouping sentencing criteria that have proved confusing or error-prone.

CHAPTER 1. General Provisions

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts—Chapter 1, General Provisions; adopted effective July 1, 1977.

Rule 401. [Renumbered 2001]
Rule 403. [Renumbered 2001]
Rule 405. [Renumbered 2001]
Rule 406. [Renumbered 2001]
Rule 407. [Renumbered 2001]
Rule 408. [Renumbered 2001]
Rule 409. [Renumbered 2001]

Rule 401. Authority [Renumbered 2001]

Rule 401 renumbered rule 4.401 effective January 1, 2001; adopted effective July 1, 1977.

Rule 403. Applicability [Renumbered 2001]

Rule 403 amended and renumbered rule 4.403 effective January 1, 2001; adopted effective July 1, 1977.

Rule 405. [Renumbered 2001]

Rule 405 amended and renumbered rule 4.405 effective January 1, 2001; adopted effective July 1, 1977; previously amended July 28, 1977, and January 1, 1991.

Rule 406. [Renumbered 2001]

Rule 406 amended and renumbered rule 4.406 effective January 1, 2001; adopted effective January 1, 1991.

Rule 407. [Renumbered 2001]

Rule 407 renumbered rule 4.407 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective January 1, 1991.

Rule 408. [Renumbered 2001]

Rule 408 renumbered rule 4.408 effective January 1, 2001; adopted effective July 1, 1977.

Rule 409. [Renumbered 2001]

Rule 409 renumbered rule 4.409 effective January 1, 2001; adopted effective July 1, 1977.

CHAPTER 2. Provisions Applicable to All Sentencing Decisions

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts—Chapter 2, Provisions Applicable to All Sentencing Decisions; adopted effective July 1, 1977.

Rule 410. [Renumbered 2001]
Rule 411. [Renumbered 2001]
Rule 411.5. [Renumbered 2001]
Rule 412. [Renumbered 2001]

Rule 410. [Renumbered 2001]

Rule 410 renumbered rule 4.410 effective January 1, 2001; adopted effective July 1, 1977.

Rule 411. [Renumbered 2001]

Rule 411 renumbered rule 4.411 effective January 1, 2001; amended and renumbered effective January 1, 1991; adopted as rule 418 effective July 1, 1977.

Rule 411.5. [Renumbered 2001]

Rule 411.5 renumbered rule 4.411.5 effective January 1, 2001; previously amended and renumbered effective January 1, 1991; adopted as rule 419 effective July 1, 1981.

Rule 412. [Renumbered 2001]

Rule 412 amended and renumbered rule 4.412 effective January 1, 2001; adopted effective January 1, 1991.

CHAPTER 3. Probation

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts—Chapter 3, Probation; adopted effective July 1, 1977.

Rule 413. [Renumbered 2001]
Rule 414. [Renumbered 2001]
Rule 416. [Repealed 1991]
Rule 418. [Renumbered 1991]
Rule 419. [Renumbered 1991]

Rule 413. [Renumbered 2001]

Rule 413 renumbered rule 4.413 effective January 1, 2001; adopted effective January 1, 1991.

Rule 414. [Renumbered 2001]

Rule 414 renumbered rule 4.414 effective January 1, 2001; amended and relettered effective January 1, 1991; adopted effective July 1, 1977.

Rule 416. [Repealed 1991]

Rule 416 repealed effective January 1, 1991; adopted effective July 1, 1977.

Rule 418. [Renumbered 1991]

Rule 418 amended and renumbered rule 411 effective January 1, 1991; adopted effective July 1, 1977.

Advisory Committee Comment

Section 1203 requires a presentence report in every felony case in which the defendant is eligible for probation; but the defendant sometimes waives this requirement. This recommendation is intended to discourage acceptance of waivers, in order to assure a complete and timely investigation.

Under sections 1203.06, 1203.07, 1203.11 (added Stats. 1976, ch. 1135), 12311 and Health and Safety Code, section 11370 the defendant may be wholly ineligible for probation, but a presentence investigation report would be of assistance to the judge in deciding motions in aggravation and mitigation and in determining whether a punishment added as an enhancement should be stricken.

Rule 419. [Renumbered 1991]

Rule 419 amended and renumbered rule 411.5 effective January 1, 1991; adopted effective July 1, 1981.

Drafter's Notes

Rule 419, concerning the minimum content and form of felony presentence investigation reports, has been adopted as required by P C §1170.3(b). The text of the rule is similar to section 12.5 of the Standards of Judicial Administration, which was repealed effective July 1, 1981, when the new rule took effect.

CHAPTER 4. Aggravation, Mitigation and Enhancement

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts—Chapter 4, Aggravation, Mitigation and Enhancement; adopted effective July 1, 1977.

Rule 420. [Renumbered 2001]
Rule 421. [Renumbered 2001]
Rule 423. [Renumbered 2001]
Rule 424. [Renumbered 2001]
Rule 425. [Renumbered 2001]
Rule 426. [Renumbered 2001]
Rule 428. [Renumbered 2001]

Rule 420. [Renumbered 2001]

Rule 420 renumbered rule 4.420 effective January 1, 2001; previously amended and renumbered effective January 1, 1991; adopted as rule 439 effective July 1, 1977; previously amended effective July 28, 1977.

Rule 421. [Renumbered 2001]

Rule 421 renumbered rule 4.421 effetive January 1, 2001; amended effective January 1, 1991; adopted effective July 1, 1977.

Rule 423. [Renumbered 2001]

Rule 423 renumbered rule 4.423 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective January 1, 1991, and July 1, 1993.

Rule 424. [Renumbered 2001]

Rule 424 renumbered rule 4.424 effective January 1, 2001; adopted effective January 1, 1991.

Rule 425. [Renumbered 2001]

Rule 425 renumbered rule 4.425 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective January 1, 1991.

Rule 426. [Renumbered 2001]

Rule 426 renumbered rule 4. 426 effective January 1, 2001; adopted effective January 1, 1991.

Rule 428. [Renumbered 2001]

Rule 428 renumbered rule 4.428 effective January 1, 2001; adopted effective January 1, 1991; previously amended effective January 1, 1998.

CHAPTER 5. Procedural Provisions

Title 2, Pretrial and Trial Rules—Division III, Sentencing Rules for the Superior Courts—Chapter 5, Procedural Provisions; adopted effective July 1, 1977.

Rule 431. [Renumbered 2001]
Rule 433. [Renumbered 2001]
Rule 435. [Renumbered 2001]
Rule 437. [Renumbered 2001]
Rule 439. [Renumbered 1991]
Rule 440. [Repealed 1991]
Rule 441. [Repealed 1991]
Rule 443. [Repealed 1991]
Rule 445. [Repealed 1991]
Rule 447. [Renumbered 2001]
Rule 449. [Repealed 1991]
Rule 450. [Repealed 1984]
Rule 451. [Renumbered 2001]
Rule 452. [Renumbered 2001]
Rule 453. [Renumbered 2001]

Rule 470. [Renumbered 2001]
Rule 472. [Renumbered 2001]
Rule 490. [Renumbered 2001]

Rule 431. [Renumbered 2001]

Rule 431 renumbered rule 4.431 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective July 1, 1977, and January 1, 1979.

Rule 433. [Renumbered 2001]

Rule 433 renumbered rule 4.433 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective July 28, 1977.

Rule 435. [Renumbered 2001]

Rule 435 renumbered rule 4.435 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective January 1, 1991.

Rule 437. [Renumbered 2001]

Rule 437 renumbered rule 4.437 effective January 1, 2001; adopted effective July 1, 1977; previously amended July 28, 1977, and January 1, 1991.

Rule 439. [Renumbered 1991]

Rule 439 amended and renumbered rule 420 effective January 1, 1991; adopted effective July 1, 1977; previously amended effective July 28, 1977.

Advisory Committee Comment

As amended by Assembly Bill No. 476 (Stats. 1977, ch. 165), the determinate sentencing law authorizes the court to select any of the three possible prison terms even though neither party has requested a deviation from the middle term by formal motion or informal argument. Section 1170(b) retains the requirement, however, that the middle term be selected unless there are circumstances in aggravation or mitigation of the crime, and requires that the court set forth on the record the facts and reasons for imposing the upper or lower term.

Thus, the sentencing judge has authority to impose the upper or lower term on his own initiative, if curcumstances justifying that choice appear upon an evaluation of the record as a whole.

The legislative intent is that, when imprisonment is the sentence choice, the middle term is to constitute the average or usual term. The rule clarifies this intent by specifying that the presence of circumstances justifying the upper or lower term must be established by a preponderance of the evidence, and that those circumstances must outweigh offsetting circumstances. Proof by a preponderance of the evidence is the standard in the absence of a statute or a decisional law to the contrary (Evid. Code, §115),

and appears appropriate here, since there is no requirement that sentencing decisions be based on the same quantum of proof as is required to establish guilt. See *Williams* v. *New York* (1949) 337 U.S. 241. (As amended effective July 28, 1977.)

Rule 440. [Repealed 1991]

Rule 440 repealed effective January 1, 1991; adopted effective July 1, 1977; previously amended effective July 1, 1983, and July 28, 1977. See rule 412.

Rule 441. [Repealed 1991]

Rule 441 repealed effective January 1, 1991; adopted effective July 1, 1977; previously amended effective July 28, 1977. See rule 420.

Advisory Committee Comment

Present law prohibits dual punishment for the same act (or fact) but permits that fact to be considered in denying probation. *People* v. *Edwards* (1976) 18 Cal.3d 796 (prior felony conviction, an element of the offense, also brought defendant within former §1203(d)(2) limitation on probation to persons with prior felony convictions), citing *People* v. *Perry* (1974) 42 Cal.App.3d 451, 460, and other cases.

The rule makes it clear that a fact charged and found as an enhancement may, in the alternative, be used in aggravation. This may work to the defendant's benefit, when the enhancement would carry an added term of three years or more, as aggravation cannot increase the term more than one year.

Note that under section 1170(b) and rule 405 (definitions), the additional term resulting from ordering sentences to be served consecutively is an "enhancement." Section 1170(b) therefore prohibits using the same fact to decide to impose consecutive sentences and to decide to impose the upper term. Subdivision (c) applies to that case as well as to enhancements arising from facts charged and found. (As amended effective July 28, 1977.)

Rule 443. [Repealed 1991]

Rule 443 repealed effective January 1, 1991; adopted effective July 1, 1977. See rule 406.

Advisory Committee Comment

Reasons are required for a sentence choice, as defined in rule 405 (§1170(c)). They are also required for the sentencing judge's decision to impose the upper or lower prison term (§1170(b)), and to explain the circumstances in mitigation which led the judge to strike an enhancement. Section 1170.1(g).

The oral statement of reasons should be complete in itself, and should not refer to a motion or a written document for clarification.

Neither section 1170(c) nor these rules requires the judge to give reasons explaining why possible dispositions were rejected; for example, the judge must state his reasons for imposing a prison sentence, but need not explain why he denied probation and did not commit an eligible youth to the Youth Authority.

There is no change in the requirement that the court state that it has considered the probation officer's report (§1203) nor in any requirement of statutory or case law that the court state that it has considered another disposition authorized by law. (As amended effective July 28, 1977.)

Rule 445. [Repealed 1991]

Rule 445 repealed effective January 1, 1991; adopted effective July 1, 1977; previously amended effective July 28, 1977. See rule 428.

Advisory Committee Comment

Under the law in effect prior to July 1, 1977, the court had no discretion concerning the imposition of additional terms prescribed for being armed with a deadly weapon or using a firearm. The practice therefore arose of striking the allegation giving rise to those additional terms, when the sentencing judge felt the additional term would be excessive; this action was taken under section 1385. See, for example, *People* v. *Dorsey* (1972) 28 Cal.App.3d 15.

Because the court now has discretion to strike the punishment (1170.1(g)), there is no necessity of following the old practice of striking the allegation; and by urging that it be left intact this section should help ensure that the record accurately reflects the fact found by the judge and jury in the event that defendant commits further crimes. E.g., section 1203(d)(6) (effect on probation eligibility of prior felony while armed).

This rule applies only when the court merely determines that the additional term of imprisonment provided as an enhancement should not be imposed. The advisory "should" is used, and there is no intention to negate the inherent and independent judicial power, under section 1385, to strike the allegation when that action is deemed necessary "in furtherance of justice." *People* v. *Tenorio* (1970) 3 Cal.3d 89 (§1385 dismissal as an exercise of judicial sentencing discretion); but see *People* v. *Orin* (1975) 13 Cal.3d 937 (power must be exercised reasonably). (As amended effective July 28, 1977.)

Rule 447. [Renumbered 2001]

Rule 447 amended and renumbered rule 4.447 effective Jnauary 1, 2001; adopted effective July 1, 1977; previously amended effective July 28, 1977, and January 1, 1991.

Rule 449. [Repealed 1991]

Rule 449 repealed effective January 1, 1991; adopted effective July 1, 1977.

Advisory Committee Comment

The computation of sentence and pronouncement of judgment on each count is necessary to protect the record in case of a partial reversal. See comment to rule 447.

Rule 450. [Repealed 1984]

Repealed effective July 1, 1984; adopted effective July 1, 1983. The repealed rule provided that sentence pursuant to conditional plea or imposed without objection need not show allocation.

Rule 451. [Renumbered 2001]

Rule 451 renumbered rule 4.451 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective January 1, 1979.

Rule 452. [Renumbered 2001]

Rule 452 renumbered rule 4.452 effective January 1, 2001; adopted effective January 1, 1991.

Rule 453. [Renumbered 2001]

Rule 453 amended and renumbered rule 4.300 and rule 4.453 effective January 1, 2001; adopted effective July 1, 1977; previously amended effective July 28, 1977.

Rule 470. [Renumbered 2001]

Rule 470 renumbered rule 4.305 and rule 4.470 effective January 1, 2001. previously amended and renumbered effective January 1, 1991; adopted effective January 1, 1972, as rule 250; previously amended effective July 1, 1972, January 1, 1977.

Rule 472. [Renumbered 2001]

Rule 472 amended and renumbered rule 4.310 effective January 1, 2001; previously amended and renumbered effective January 1, 1991; adopted effective January 1, 1977, as rule 252.

Rule 490. [Renumbered 2001]

Rule 490 renumbered rule 4.315 effective January 1, 2001; amended effective July 1, 1990; adopted effective July 1, 1989.

DIVISION IV. Rules for the Municipal Courts

[Repealed]

Title 2, Pretrial and Trial Rules—Division IV, Rules for the Municipal Courts; Division adopted effective January 5, 1953, as Division II and renumbered Division IV effective January 1, 1984. Former Division IV, consisting of Rules 801-860, was renumbered Division VI effective January 1, 1974. Repealed effective January 1, 2001, except for rules 530 and 535, which were renumbered rule 4.325 and 4.306, respectively.

Rule 501. [Repealed 2001]
Rule 501.5. [Repealed 2001]
Rule 502. [Repealed 2001]
Rule 503. [Repealed 2001]
Rule 503.5. [Repealed 2001]
Rule 504. [Repealed 2001]
Rule 505. [Repealed 1984]
Rule 506. [Repealed 2001]
Rule 507. [Repealed 2001]
Rule 508. [Repealed 2001]
Rule 509. [Repealed 2001]
Rule 510. [Repealed 2001]
Rule 511. [Repealed 2001]
Rule 512. [Repealed 2001]
Rule 513. [Repealed 2001]
Rule 514. [Repealed 1992]
Rule 515. [Repealed 2001]
Rule 516. [Repealed 2001]
Rule 516.1. [Repealed 2001]
Rule 516.2. [Repealed 2001]
Rule 517. [Repealed 2001]
Rule 518. [Repealed 2001]
Rule 519. [Repealed 1984]
Rule 520. [Repealed 2001]
Rule 521. [Repealed 2001]
Rule 522. [Repealed 2001]
Rule 523. [Repealed 2001]
Rule 524. [Repealed 2001]
Rule 525. [Repealed 2001]
Rule 526. [Repealed 2001]
Rule 527. [Repealed 1984]
Rule 527.9. [Repealed 2001]
Rule 528. [Repealed 1984]
Rule 529. [Repealed 2001]

Rule 529.2. [Repealed 2001]
Rule 530. [Renumbered 2001]
Rule 531. [Repealed 2001]
Rule 532. [Repealed 2001]
Rule 532.1. [Repealed 2001]
Rule 532.2. [Repealed 2001]
Rule 532.5. [Repealed 2001]
Rule 532.6. [Repealed 2001]
Rule 532.7. [Repealed 2001]
Rule 533. [Repealed 2001]
Rule 534. [Repealed 2001]
Rule 535. [Renumbered 2001]
Rule 560. [Repealed 1986]
Rule 598. [Repealed 2001]

Rule 501. [Repealed 2001]

Rule 501 repealed effective January 1, 2001; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, July 1, 1969, July 1, 1971, January 1, 1973, July 1, 1974, January 1, 1976, January 1, 1978, May 6, 1978, January 1, 1984, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1999, July 1, 1999, and July 1, 2000; adopted effective January 5, 1953. See rule 201.

Drafter's Notes

January 1993—The council adopted amendments to rules 9, 15, 44, 201, and 501 of the California Rules of Court, effective January 1, 1993, to: (1) expressly permit and encourage litigation documents, reporter's transcripts, and records on appeal to be on recycled paper; and (2) allow the use of unbleached paper.

July 1993—The council adopted amendments to rules 201 and 501, effective July 1, 1993, to (1) require two-hole punching at the top of each document; (2) provide a standard form of line numbering, type size, type style, and type color; (3) provide style and availability rules for local forms; and (4) require an attorney's State Bar number on pleadings.

1994—New and amended California Rules of Court (new rules 989.1, 1071.5; amended rules 9, 40, 44, 201, 501) require the use of recycled paper for original papers filed in California courts after January 1, 1995, and for copies after January 1, 1996. The rules provide that an attorney, by the act of filing the document, certifies that recycled paper was used.

January 1999—Amended rules 201 and 501 require that each paper filed in superior and municipal courts include a footer stating the title of the paper in the bottom margin of each page. Additionally, amended rule 501 requires litigants to state, on the first page of the complaint or petition, whether the amount demanded exceeds or does not exceed $10,000 and whether the case is a "limited civil case" (i.e., amount in controversy is less than $25,000).

July 1999—Amended rules 201 and 501 require that the reverse side of all two-sided forms be rotated 180 degrees ("tumbled").

July 2000—See note following rule 201.

Rule 501.5. [Repealed 2001]

Rule 501.5 repealed effective January 1, 2001; adopted effective July 1, 1987. See rule 201.5.

Drafter's Notes
1987—The council adopted new rules 201.5 (superior courts) and 501.5 (municipal and justice courts) to curtail the filing of routine and inessential papers. The rules specify the papers that may not be routinely filed. Filing will be permitted if ordered by the court for good cause or if relevant to an issue in a law-and-motion proceeding or other hearing.

Rule 502. [Repealed 2001]

Rule 502 repealed effective January 1, 2001; adopted effective January 1, 1985.

Rule 503. [Repealed 2001]

Rule 503 repealed effective January 1, 2001; previously amended effective April 1, 1962, January 1, 1971, July 1, 1972, January 1, 1984; and January 1, 1987.

Rule 503.5. [Repealed 2001]

Rule 503.5 repealed effective January 1, 2001; adopted effective July 1, 1988.

Former Rule
Former rule 503.5, similar to rule 373, was adopted effective January 1, 1970, and repealed effective January 1, 1984.

Drafter's Notes
1988—The council adopted rules 203.5 and 503.5 to provide that a party offering an electronic recording into evidence must tender to the court and opposing parties a written transcript of the recording. The transcript is to be marked for identification and will constitute part of the clerk's transcript on appeal.

Rule 504. [Repealed 2001]

Rule 504 repealed effective January 1, 2001; adopted effective July 1, 1997.

Former rule
Former rule 504 adopted effective April 1, 1962; amended effective July 1, 1963, September 17, 1965, January 1, 1978, and January 1, 1979; repealed effective January 1, 1984. See rule 309.

Rule 505. [Repealed 1984]

Adopted effective January 5, 1953; repealed effective January 1, 1984. See rule 327(b).

Rule 506. [Repealed 2001]

Rule 506 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 507. [Repealed 2001]

Rule 507 repealed effective January 1, 2001; adopted effective January 5, 1953; previously amended effective January 1, 1983, and January 1, 1953. See rule 209.

Drafter's Notes
1983—Rules 206 and 507 were amended to permit a case to proceed to trial if it is at issue as to all essential defendants and if six months have passed since the filing of any cross-complaint. The court retains the power to sever a cross-complaint before the expiration of the six-month period.

A new subdivision (c) was added to rule 507 to permit the filing and service of a countermemorandum to the memorandum to set in municipal and justice courts. The amendment permits a procedure similar to that now allowed in superior courts by rule 206(b).

1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (10) rule 507 concerning civil cases at issue in municipal courts, to conform to superior court rule 209; . . .

Rule 508. [Repealed 2001]

Rule 508 repealed effective January 1, 2001; adopted effective January 1, 1995.

Former Rule
Former rule 508, similar to the present rule, was adopted effective January 5, 1953, and repealed effective January 1, 1995.

Drafter's Notes
1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (11) rule 508 concerning the civil active list in municipal courts, to conform to superior court rule 210; . . .

Rule 509. [Repealed 2001]

Rule 509 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 510. [Repealed 2001]

Rule 510 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 511. [Repealed 2001]

Rule 511 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 512. [Repealed 2001]

Rule 512 repealed effective January 1, 2001; adopted effective July 1, 1999. See rule 212.

Former Rule
Former rule 512 renumbered as rule 513 effective July 1, 1999.

Drafter's Notes
1999—Amendments to rule 212 and new rule 512 require parties in cases in which case management conferences are held to meet no later than 30 days before the first case management conference to discuss issues relating to the management of the case. The rules also require parties to file a case management conference statement no later than 5 days before the first case management conference.

Rule 513. [Repealed 2001]

Rule 513 repealed effective January 1, 2001; renumbered effective July 1, 1999; adopted effective January 1, 1994, as rule 512; former rule 513 repealed 1984. See rule 375(b).

Drafter's Notes
1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments [rules 227, 512, 526, 2102, 2103, 2104, 2105; sections 2 and 2.3(c) of the Standards of Judicial Administration] to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

Rule 514. [Repealed 1992]

Rule 514 adopted effective January 5, 1953; repealed effective January 1, 1992. See rule 525.

Drafter's Notes
1992—See note following rule 225.

Rule 515. [Repealed 2001]

Rule 515 repealed effective January 1, 2001; adopted effective January 1, 1953; previously amended effective January 1, 1973.

Rule 516. [Repealed 2001]

Rule 516 repealed effective January 1, 2001; adopted effective January 5, 1953; previously amended effective January 1, 1972, January 1, 1974, January 1, 1975; and June 6, 1990.

Drafter's Notes
1990—Rule 516, concerning jury selection in the municipal and justice courts, is amended to limit that section to civil actions and proceedings.

Rule 516.1. [Repealed 2001]

Rule 516.1 repealed effective January 1, 2001; adopted effective June 6, 1990.

Drafter's Notes
1990—The council adopted new rules 228.1 and 516.1 concerning conferences to be held before jury selection in criminal cases (pre-voir dire conferences) in which certain information shall be exchanged, and concerning the submission of questions for prospective jurors in writing, in advance of the conference. It also adopted new sections 8.6 and 8.8 of the Standards of Judicial Administration, concerning uninterrupted jury selection and judicial education related to jury selection.

New rule 516.1 is added concerning the pre-voir dire conference in criminal cases in municipal and justice courts.

Rule 516.2. [Repealed 2001]

Rule 516.2 repealed effective January 1, 2001; adopted effective June 6, 1990.

Drafter's Notes
1990—New rules 228.2 and 516.2 are added to provide for supplemental examinations in criminal cases, and section 8.5(a)(3) of the Standards of Judicial Administration is repealed concerning the same subject.

Rule 517. [Repealed 2001]

Rule 517 repealed effective January 1, 2001; adopted effective January 5, 1953; amended effective April 1, 1962
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Rule 518. [Repealed 2001]

Rule 518 repealed effective January 1, 2001; adopted effective January 5, 1953

Rule 519. [Repealed 1984]

Adopted effective January 5, 1953; amended effective July 1, 1965; repealed effective January 1, 1984. See rule 377.

Rule 520. [Repealed 2001]

Rule 520 repealed effective January 1, 2001; adopted effective January 5, 1953; previously amended effective January 1, 1969, July 1, 1973, July 1, 1982; and January 1, 1983.

Drafter's Notes

1982—CCP §632 was amended by Stats. 1981, ch. 900 to substitute a new "statement of decision" procedure in place of written findings of fact and conclusions of law; rules 232, 232.5, and 520 were amended to conform to and implement the statutory changes.

1983—At the suggestion of a superior court judge, the Judicial Council amended rules 232 and 520 to provide that an announcement of tentative decision may state that it will stand as the court's statement of decision in the event one is requested, unless within 10 days either party makes additional proposals as to the content of the statement of decision. The amendments also clarify that these rules only apply when trial was not completed in one day (see Code Civ. Proc., §632).

Rule 521. [Repealed 2001]

Rule 521 repealed effective January 1, 2001; adopted effective January 5, 1953. See rule 222.1.

Rule 522. [Repealed 2001]

Rule 522 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 523. [Repealed 2001]

Rule 523 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 524. [Repealed 2001]

Rule 524 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 525. [Repealed 2001]

Rule 525 repealed effective January 1, 2001; adopted effective January 1, 1992.

Former Rule

Former rule 525 adopted effective January 5, 1953; amended effective April 1, 1962; repealed effective January 1, 1984. See rule 359.

Drafter's Notes
1992—See note following rule 225.

Rule 526. [Repealed 2001]

Rule 526 repealed effective January 1, 2001; adopted effective January 1, 1994.

Drafter's Notes
1994—The Civil and Small Claims Standing Advisory Committee recommended several "clean-up" amendments [rules 227, 512, 526, 2102, 2103, 2104, 2105; sections 2 and 2.3(c) of the Standards of Judicial Administration] to address problems under delay reduction programs, particularly to eliminate unnecessary differences between the procedures in superior and municipal courts. The proposals were adopted by the council.

Rule 527. [Repealed 1984]

Adopted effective January 5, 1953; repealed effective January 1, 1984. See rule 351.

Rule 527.9. [Repealed 2001]

Rule 527.9 repealed effective January 1, 2001; adopted effective July 1, 1985.

Drafter's Notes
1985—Rule 527.9, applicable to municipal and justice courts, repeats the provisions of superior court rule 227.9 and provides for a magistrate's certification to the superior court under Penal Code section 859a.

Rule 528. [Repealed 1984]

Adopted effective January 5, 1953; amended effective July 1, 1965; repealed effective January 1, 1984. See rule 353; CCP §873.120.

Rule 529. [Repealed 2001]

Rule 529 repealed effective January 1, 2001; adopted effective January 5, 1953.

Rule 529.2. [Repealed 2001]

Rule 529.2 repealed effective January 1, 2001; adopted effective January 1, 1991; previously amended effective July 1, 1991.

Drafter's Notes
1991—The council amended rules 241.2 and 529.2 on certification to juvenile court to clarify that the preponderance of the evidence standard applies.

Rule 530. [Renumbered 2001]

Rule 530 amended and renumbered rule 4.325 effective January 1, 2001; adopted effective January 1, 1995.

Former Rule
Former rule 530, similar to present rule 381; CCP §§995.360, 995.510, 995.630 were adopted effective January 5, 1953, amended effective January 1, 1977, and repealed effective January 1, 1984.

Rule 531. [Repealed 2001]

Rule 531 repealed effective January 1, 2001; adopted effective January 5, 1953; amended effective July 1, 1993.

Rule 532. [Repealed 2001]

Rule 532 repealed effective January 1, 2001; adopted effective January 5, 1953; previously amended effective April 1, 1962, January 1, 1975, July 1, 1987, July 1, 1993; and July 1, 1995. See rule 244,

Drafter's Notes
1987—The council amended rules 244 and 532 to streamline the appointment of temporary judges. The amendments will (1) permit the order designating a temporary judge to be signed by the supervising judge in a branch court, (2) allow a temporary judge to execute a blanket oath, and (3) allow the court to sign a blanket order designating a temporary judge.

1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended rules 244 and 532 concerning the compensation of temporary judges. The change was in conformance with recent amendments to Penal Code section 94.

Rule 532.1. [Repealed 2001]

Rule 532.1 repealed effective January 1, 2001; adopted effective July 1, 1993.

Rule 532.2. [Repealed 2001]

Rule 532.2 repealed effective January 1, 2001; adopted effective July 1, 1993; amended effective January 1, 1996.

Rule 532.5. [Repealed 2001]

Rule 532.5 repealed effective January 1, 2001; previously amended effective January 1, 1978, July 1, 1978, January 1, 1979, July 1, 1979, November 10, 1979, January 1, 1980, January 1,

1990, July 1, 1991, January 1, 1996, July 1, 1998, November 20, 1998, and April 1, 1999; adopted effective January 1, 1973. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Drafter's Notes

1989—The council adopted new section 25 of the Standards of Judicial Administration to establish standards for judicial education. It also amended rules 205 and 532.5 to refer to section 25 in the list of duties of presiding judges of superior and municipal courts.

1991—The council amended rules 78, 205, and 532.5 to clarify the duties of presiding judges to report both the failure of judges to perform judicial duties and their absences caused by disabilities. The council also voted to defer consideration of the proposal to reduce the time necessary to trigger the reporting duty until a judicial leave policy is drafted.

The council (1) amended rules 205, 207, and 532.5 to require trial courts to (a) adopt court personnel plans after considering new section 27 of the Standards of Judicial Administration and (b) forward each personnel plan and affirmative action report to the Administrative Office of the Courts by March 1, 1992, with an annual update thereafter; (2) amended rule 206 and adopted rule 532.7 to require a judge to comply with the court's personnel plan; (3) adopted section 27(a)—(c) of the Standards of Judicial Administration to suggest that courts should consider including certain elements in a court personnel plan to reduce the opportunity for gender bias in court administration; and (4) adopted section 27(d) of the Standards of Judicial Administration to suggest that superior courts should consider including discipline and discharge procedure in a court personnel plan.

1996—These rules [rules 205 and 532.5] were amended to require a presiding judge to forward a confidential evaluation form annually on each assigned retired judge serving in the presiding judge's court. The rule also obligates the presiding judge to direct all complaints against retired judges serving on assignment to the Administrative Director of the Courts.

1998—In response to the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233), the council adopted five new rules on court management effective July 1, 1998. These new rules will be incorporated into a new title of the California Rules of Court covering judicial administration (Title Six). In addition, rules 205, 207, and 532.5, regarding the duties of presiding judges and court executives in preparing personnel plans, were amended to conform to the new rules and section 27 of the Standards of Judicial Administration, regarding trial court personnel plans, was repealed, effective July 1, 1998.

1999—New section 39 of the Standards of Judicial Administration and amended rules 205, 207, and 532.5, effective April 1, 1999, encourage judges to provide leadership for and personally engage in community collaboration and outreach activities as part of their judicial functions.

Rule 532.6. [Repealed 2001]

Rule 532.6 repealed effective January 1, 2001; adopted effective January 1, 1989. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Rule 532.7. [Repealed 2001]

Rule 532.7 repealed effective January 1, 2001; adopted effective July 1, 1991. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Drafter's Notes
1991—The council (1) amended rules 205, 207, and 532.5 to require trial courts to (a) adopt court personnel plans after considering new section 27 of the Standards of Judicial Administration and (b) forward each personnel plan and affirmative action report to the Administrative Office of the Courts by March 1, 1992, with an annual update thereafter; (2) amended rule 206 and adopted rule 532.7 to require a judge to comply with the court's personnel plan; (3) adopted section 27(a)-(c) of the Standards of Judicial Administration to suggest that courts should consider including certain elements in a court personnel plan to reduce the opportunity for gender bias in court administration; and (4) adopted section 27(d) of the Standards of Judicial Administration to suggest that superior courts should consider including discipline and discharge procedure in a court personnel plan.

Rule 533. [Repealed 2001]

Rule 533 repealed effective January 1, 2001; amended effective January 1, 1973; adopted effective January 5, 1953. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Rule 534. [Repealed 2001]

Rule 534 repealed effective January 1, 2001; adopted effective September 24, 1959; amended effective June 1, 1963.

Rule 535. [Renumbered 2001]

Rule 535 renumbered rule 4.306 effective January 1, 2001; adopted effective July 1, 1981.

Rule 560. [Repealed 1986]

Adopted effective January 1, 1982; repealed effective January 1, 1986.

Drafter's Notes
1985—See rule 1725.

Rule 598. [Repealed 2001]

Rule 598 repealed effective January 1, 2001; adopted effective January 1, 1999; amended effective July 1, 1999. See rule 298.

Drafter's Notes

January 1999—New rule 598 provides procedures for telephone appearances in municipal court (and in limited civil cases in unified courts) similar to those applicable in superior court cases under rule 298. Rule 827, which provided different procedures for telephone appearances, was repealed. Technical amendments were made to rule 298, which governs telephone appearances in superior court.

July 1999—Amendments to rules 298 and 598 require each court to provide information to the public regarding the particular procedures to be used in that court to make a telephone appearance.

DIVISION V. Rules for the Unified Superior Court

Adopted effective July 1, 1972, as Division III. Renumbered effective January 1, 1984.

Note

Amendments to Cal. Const. art VI, §§1, 5, 6, 8, 11, 15, 18, and 18.5, which were approved by voters at the November 8, 1994, general election (Prop 191) and took effect on January 1, 1995, have resulted in the abolition of the justice courts.

CHAPTER 1. Rules for Pretrial and Trial Procedure

Title 2, Pretrial and Trial Rules—Division V, Rules Relating to Justice Courts—Chapter 1, Rules for Pretrial and Trial Procedure. Chapter repealed effective July 1, 2001; adopted effective January 1, 1977.

Rule 701. [Repealed 2001]

Rule 701 repealed effective July 1, 2001; previously repealed and adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 702. [Repealed 2001]

Rule 702 repealed effective July 1, 2001; previously repealed and adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 703. [Repealed 2001]

Rule 703 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 704. [Repealed 2001]

Rule 704 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 705. [Repealed 2001]

Rule 705 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 706. [Repealed 2001]

Rule 706 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes

1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 707. [Repealed 2001]

Rule 707 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes
1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.
2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 708. [Repealed 2001]

Rule 708 repealed effective July 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220); previously amended effective December 2, 1999.

Drafter's Notes
1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.
2000—Rule 708 was amended to clarify that, prior to unification, a Memorandum of Understanding may be adopted selecting the presiding judge or executive officer of the unified court, and changes in local rules may be made to take effect on or after the date of unification.
2001—All California courts were unified as of February 8, 2001. These rules, which govern the voting procedure for unification, are no longer needed and have been repealed.

Rule 709. [Repealed 2001]

Rule 709 repealed effective January 1, 2001; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

Drafter's Notes
1998—Rules 701–709 were adopted to implement the constitutional provision authorizing judges within a county to vote for a unified superior court, including voting and transitional procedures.

CHAPTER 2. Justice Court Administration Rules [Repealed]

Title 2, Pretrial and Trial Rules—Division V, Rules Relating to Justice Courts—Chapter 2, Justice Court Administration Rules; Chapter repealed effective July 1, 2001; added effective July 1, 1988. Former Chapter 2, Rules for Qualifying Examination for Lay Candidates for Judge of the Justice Court, consisting of rules 750–760, was adopted effective July 1, 1972, and repealed effective July 1, 1975.

Rule 750. [Repealed 1998]
Rule 751. [Repealed 1998]
Rules 752-760. [Repealed 1975]

Rule 750. [Repealed 1998]

Rule 750 repealed effective June 3, 1998; adopted effective July 1, 1988; amended effective July 1, 1989.

Rule 751. [Repealed 1998]

Rule 751 repealed effective June 3, 1998; adopted effective July 1, 1989.

Rules 752-760. [Repealed 1975]

Adopted effective July 1, 1972; repealed effective July 1, 1975.

CHAPTER 3. Rules for Oral Examining Boards for Candidates for Office of Judge of the Justice Court [Repealed]

Title 2, Pretrial and Trial Rules—Division V, Rules Relating to Justice Courts—Chapter 3, Rules for Oral Examining Boards for Candidates for Office of Judge of the Justice Court; Chapter repealed effective July 1, 2001; adopted effective July 1, 1972.

Rule 765. [Repealed 1998]
Rule 766. [Repealed 1998]
Rule 767. [Repealed 1998]
Rule 768. [Repealed 1998]
Rule 769. [Repealed 1998]
Rule 770. [Repealed 1998]

Rule 765. [Repealed 1998]

Rule 765 repealed effective June 3, 1998; adopted July 1, 1972; amended effective May 17, 1975.

Rule 766. [Repealed 1998]

Rule 766 repealed effective June 3, 1998; adopted effective July 1, 1972.

Rule 767. [Repealed 1998]

Rule 767 repealed effective June 3, 1998; adopted effective July 1, 1972.

Rule 768. [Repealed 1998]

Rule 768 repealed effective June 3, 1998; adopted effective July 1, 1972.

Rule 769. [Repealed 1998]

Rule 769 repealed effective June 3, 1998; adopted effective July 1, 1972.

Rule 770. [Repealed 1998]

Rule 770 repealed effective June 3, 1998; adopted effective July 1, 1972.

CHAPTER 4. Rules Relating to Circuit Justice Court Judges [Repealed]

Title 2, Pretrial and Trial Rules—Division V, Rules Relating to Justice Courts—Chapter 4, Rules Relating to Circuit Justice Court Judges; Chapter repealed effective July 1, 2001; adopted effective May 17, 1975.

Note
This chapter, as originally adopted, was to expire January 2, 1977. On December 27, 1976, the Judicial Council amended Rules 780-784 by repealing the expiration date.

Rule 780. [Repealed 1992]
Rule 781. [Repealed 1992]
Rule 782. [Repealed 1992]
Rule 783. [Repealed 1992]
Rule 784. [Repealed 1981]

Rule 780. [Repealed 1992]

Rule 780 adopted effective May 17, 1975; repealed effective January 1, 1992.

Drafter's Notes
1992—The council repealed chapter 4 of division V of title two, Rules Relating to Circuit Justice Court Judges (rules 780-783), because of the abolition of the circuit justice court judge program was chaptered into law in October 1989. The legislation also repealed Government Code section 71700, effective July 1, 1990, relating to creation of circuit justice court judgeships. With the repeal of section 71700, the rules relating to circuit justice court judge salaries and state reimbursements are no longer needed.

Rule 781. [Repealed 1992]

Rule 781 adopted effective May 17, 1977; repealed effective January 1, 1992.

Drafter's Notes
1992—See note following rule 780.

Rule 782. [Repealed 1992]

Rule 782 adopted effective May 17, 1975; repealed effective January 1, 1992.

Drafter's Notes
1992—See note following rule 780.

Rule 783. [Repealed 1992]

Rule 783 adopted effective May 17, 1975; repealed effective January 1, 1992.

Drafter's Notes
1992—See note following rule 780.

Rule 784. [Repealed 1981]

Adopted effective July 1, 1972; repealed effective July 1, 1981.

Drafter's Notes

1981—Rule 784 was repealed since it is no longer needed because Gov C §68541(c) now provides for the compensation of justice court judges on assignment to other justice courts.

CHAPTER 5. Rules Relating to Compensation of Justice Court Judges Serving on Exchange Assignments [Repealed]

Title 2, Pretrial and Trial Rules—Division V, Rules Relating to Justice Courts—Chapter 5, Rules Relating to Compensation of Justice Court Judges Serving on Exchange Assignments; Chapter repealed effective July 1, 2001; adopted effective January 1, 1977.

Rule 790. [Repealed 1998]
Rule 795. [Repealed 1995]
Rule 795.5. [Repealed 1999]
Rule 796. [Repealed 1995]

Rule 790. [Repealed 1998]

Rule 790 repealed effective June 3, 1998; adopted effective January 1, 1977.

Rule 795. [Repealed 1995]

Adopted effective March 23, 1990; amended effective July 1, 1991, and January 1, 1993; repealed effective January 1, 1995. The repealed rule related to part-time justice court judges—availability for assignment duties.

Note

Prior to its repeal, rule 795 read:

"(a) [Availability] To receive the salary of a municipal court judge under Government Code section 68202.5(c), a part-time justice court judge shall be available to take assignments from the Chief Justice when the workload in the judge's home court does not require the judge's services. A judge's sevices shall be deemed required in the judge's home court for the fraction of a full-time workload computed using rule 750. In determining the time a judge is available for assignment, allowance shall be made for sick leave, educational leave provided by the Standards of Judicial Administration, and up to 21 court days each year of vacation.

(Subd (a) amended and relettered effective January 1, 1993; adopted effective March 23, 1990; previously amended effective July 1, 1991.)

"(b) [Duties] It shall be the duty of a part-time justice court judge certified for judicial assignment by the Chief Justice to be available for assignment and to comply with all other program

requirements as set forth in these rules and in the Full-Time Justice Court Judges Certification and Assignment Procedures.
(Subd (b) adopted effective January 1, 1993)"

Drafter's Notes

1997—Please note that rule 795.5 was originally adopted by the Judicial Council by circulating order effective January 1, 1995. Rules 795 and 796 were repealed effective January 1, 1995. The publishers and courts were not notified when the rules were adopted and repealed, and we apologize for the oversight.

Rule 795.5. [Repealed 1999]

Rule 795.5 repealed effective January 1, 1999; amended effective December 9, 1996; adopted effective January 1, 1995.

Note

Government Code §68202.5, referred to as "*former* Government Code section 68202.5" in subd (a), is not a repealed section.

Drafter's Notes

1997—Please note that rule 795.5 was originally adopted by the Judicial Council by circulating order effective January 1, 1995. Rules 795 and 796 were repealed effective January 1, 1995. The publishers and courts were not notified when the rules were adopted and repealed, and we apologize for the oversight.

Rule 796. [Repealed 1995]

Rule 796 adopted effective January 1, 1993; repealed effective January 1, 1995. The repealed rule related to part-time justice court judges—termination of certification.

Drafter's Notes

1997—Please note that rule 795.5 was originally adopted by the Judicial Council by circulating order effective January 1, 1995. Rules 795 and 796 were repealed effective January 1, 1995. The publishers and courts were not notified when the rules were adopted and repealed, and we apologize for the oversight.

DIVISION VI. Miscellaneous Rules Relating to Trial Courts

Title 2, Pretrial and Trial Rules—Division VI, Miscellaneous Rules Relating to Trial Courts; Division adopted effective July 1, 1964 as Division III, renumbered Division IV effective July 1, 1972, and renumbered Division VI effective January 1, 1984.

Rule 801. [Renumbered 2001]

Rule 801 renumbered rule 4.101 effective January 1, 2001; adopted effective July 1, 1964.

Rule 804. Notice of related case

(a) [Duty of counsel] Whenever counsel in a civil action knows or learns that the action or proceeding is related to another action or proceeding pending in any state or federal court in California, counsel shall promptly file and serve a Notice of Related Case. The Notice shall also be served on all known parties in each related action or proceeding. It shall state the court, title, case number, and filing date of each related action or proceeding, together with a brief statement of their relationship. If the case is pending in the same court, it shall also give reasons why assignment to a single judge is or is not likely to effect economies.

This is a continuing duty that applies when counsel files a case with knowledge of a related action or proceeding, and applies thereafter whenever counsel learns of a related action or proceeding.

(b) [Definition of related case] An action or proceeding is "related" to another when both:

(1) involve the same parties and are based on the same or similar claims; or

(2) involve the same property, transaction, or event; or

(3) involve substantially the same facts and the same questions of law.

(c) [Response] Within 10 days after service upon a party of a Notice of Related Case, the party may file and serve a response supporting or opposing the Notice. A timely response will be considered when the court determines what action may be appropriate to coordinate the cases formally or informally.

(d) [Judicial action] On notice to counsel, the judge to whom the case is assigned may confer informally with the parties, and with the judge to whom each related case is assigned, to determine the feasibility and desirability of joint discovery orders and other informal or formal means of coordinating proceedings in the cases.

Rule 804 adopted effective January 1, 1996.

Rule 805. Acceptance of checks and other negotiable paper

A personal check, bank cashier's check, money order or traveler's check tendered in payment of any fee, fine or bail deposit pursuant to section 71386 of the Government Code or section 40510 or 40521 of the Vehicle Code shall be accepted by the court:

(1) if the personal check is drawn on a banking institution located in California by a person furnishing satisfactory proof of residence in California, is payable to the court without a second party endorsement and is in an amount not exceeding the amount of the payment and is not postdated or staledated, unless the person drawing the check is known to have previously tendered worthless checks; or

(2) if the bank cashier's check or money order is drawn on a banking institution located in the United States and is in an amount not exceeding the amount of the payment; or

(3) if the person presenting the traveler's check shows satisfactory identification.

Except for checks tendered pursuant to the conditions specified in Vehicle Code section 40521(a), a court may require that a person drawing a personal check furnish satisfactory proof of good credit by showing a valid recognized credit card or by any other reasonable means.

A court may accept or reject any check or money order not meeting the requirements of this rule, under a written policy adopted by the court pursuant to Government Code section 71386(a).

Rule 805 adopted effective July 1, 1981.

Drafter's Notes

Gov C §71386 (added by Stats. 1980, ch. 561) provides that each court shall adopt a written policy, consistent with rules adopted by the Judicial Council, governing the acceptance of checks and money orders in payment of any fee, fine or bail deposit. The statute requires that a court accept a personal check, bank cashier's check or money order (except in felony cases) if the check meets the criteria established under the law. No court is required to accept a check in excess of $300 for a defendant in custody for a violation of the Penal Code.

New rule 805 provides minimum standards for the acceptance of checks and other negotiable paper. The courts are required to accept certain checks under the rule, but have discretion to accept or reject any check not meeting the minimum standards.

Rule 810. Court operations

(a) [Definition] Except as provided in subdivision (b) and subject to the requirements of subdivisions (c) and (d), "court operations" as defined in Government Code section 77003 includes the following costs:

(1) *(judicial salaries and benefits)* salaries, benefits, and public agency retirement contributions for superior and municipal court judges and for subordinate judicial officers;

(2) *(nonjudicial salaries and benefits)* salaries, benefits, and public agency retirement contributions for superior and municipal court staff whether permanent, temporary, full- or part-time, contract or per diem, including but not limited to all municipal court staff positions specifically prescribed by statute and county clerk positions directly supporting the superior courts.

(3) salaries and benefits for those sheriff, marshal, and constable employees as the court deems necessary for court operations in superior and municipal courts and the supervisors of those sheriff, marshal, and constable employees who directly supervise the court security function;

(4) court-appointed counsel in juvenile dependency proceedings, and counsel appointed by the court to represent a minor as specified in Government Code section 77003;

(5) *(services and supplies)* operating expenses in support of judicial officers and court operations;

(6) *(collective bargaining)* collective bargaining with respect to court employees; and

(7) *(indirect costs)* a share of county general services as defined in subdivision (d), Function 11, and used by the superior and municipal courts.

(Subd (a) amended effective July 1, 1995; previously amended effective January 1, 1989, July 1, 1990, July 1, 1991.)

(b) [Exclusions] Excluded from the definition of "court operations" are the following:

(1) law library operations conducted by a trust pursuant to statute;

(2) courthouse construction and site acquisition, including space rental (for other than court records storage), alterations/remodeling, or relocating court facilities;

(3) district attorney services;

(4) probation services;

(5) indigent criminal and juvenile delinquency defense;

(6) civil and criminal grand jury expenses and operations (except for selection);

(7) pretrial release services;

(8) equipment and supplies for use by official reporters of the courts to prepare transcripts as specified by statute; and

(9) county costs as provided in subdivision (d) as unallowable.

(Subd (b) amended effective July 1, 1995; adopted effective July 1, 1988 as subd (c); previously amended January 1, 1989, July 1, 1990.)

(c) [Budget appropriations] Costs for court operations specified in subdivision (a) shall be appropriated in county budgets for superior and municipal courts, including contract services with county agencies or private providers except for the following:

(1) salaries, benefits, services, and supplies for sheriff, marshal, and constable employees as the court deems necessary for court operations in superior and municipal courts;

(2) salaries, benefits, services, and supplies for county clerk activities directly supporting the superior court; and

(3) costs for court-appointed counsel specified in Government Code section 77003.

Except as provided in this subdivision, costs not appropriated in the budgets of the courts are unallowable.

(Subd (c) amended effective July 1, 1995; adopted effective July 1, 1990 as subd (d).)

(d) [Functional budget categories] Trial court budgets and financial reports shall identify all allowable court operations in the following eleven (11) functional budget categories. Costs for salary, wages, and benefits of court employees are to be shown in the appropriate functions provided the individual staff member works at least 25 percent time in that function. Individual staff members whose time spent in a function is less than 25 percent are reported in Function 10, All Other Court Operations. The functions and their respective costs are as follows:

Function 1. Judicial Officers

Costs reported in this function are
Salaries and state benefits of
Judges
Full- or part-time court commissioners
Full- or part-time court referees
Assigned judges' in-county travel expenses
Costs not reported in this function include
County benefits of judicial officers (Function 10)
Juvenile traffic hearing officers (Function 10)
Mental health hearing officers (Function 10)
Pro tem hearing officers (Function 10)
Commissioner and referee positions specifically excluded by statute from state trial court funding (unallowable)
Related data processing (Function 9)
Any other related services, supplies, and equipment (Function 10)

Function 2. Jury Services

Costs reported in this function are
Juror expenses of per diem fees and mileage
Meals and lodging for sequestered jurors
Salaries, wages, and benefits of jury commissioner and jury services staff (including selection of grand jury)
Contractual jury services
Jury-related office expenses (other than information technology)
Jury-related communications, including "on call" services

Costs not reported in this function include
Juror parking (unallowable)
Civil and criminal grand jury costs (unallowable)
Jury-related information systems (Function 9)

Function 3. Verbatim Reporting

Costs reported in this function are
Salaries, wages, and benefits of court reporters who are court employees
Salaries, wages, and benefits of electronic monitors and support staff
Salaries, wages, and benefits of verbatim reporting coordinators and clerical support staff
Contractual court reporters and monitors
Transcripts for use by appellate or trial courts, or as otherwise required by law
Related office expenses and equipment (purchased, leased, or rented) used to record court proceedings**,** except as specified in Government Code §68073, e.g., notepaper, pens, and pencils ER equipment and supplies
Costs not reported in this function include
Office expenses and equipment for use by reporters to prepare transcripts (unallowable)
Expenses specified in Government Code §69073 (unallowable)
Space use charges for court reporters (unallowable)

Function 4. Court Interpreters

Costs reported in this function are
Salaries, wages, and benefits of courtroom interpreters and interpreter coordinators
Per diem and contractual courtroom interpreters, including contractual transportation and travel allowances
Costs not reported in this function include
Related data processing (Function 9)
Any other related services, supplies, and equipment (Function 10)

Function 5. Collections Enhancement

Collections performed in the enforcement of court orders for fees, fines, forfeitures, restitutions, penalties, and assessments (beginning with the establishment of the accounts receivable record)
Costs reported in this function are

Salaries, wages, and benefits of collection employees of the court, e.g., financial hearing officers evaluation officers collection staff
Contract collections costs
County charges for collection services provided to the court by county agencies
Related services, supplies, and equipment (except data processing, Function 9)
Costs not reported in this function include
Staff whose principal involvement is in collecting "forthwith" payments, e.g., counter clerks (Function 10) cashiers (Function 10)

Function 6. Dispute Resolution Programs

Costs reported in this function are
Arbitrators' fees in mandatory judicial arbitration programs
Salaries, wages, and benefits of court staff providing child custody and visitation mediation and related investigation services, e.g., Director of Family Court Services mediators conciliators investigators clerical support staff
Contract mediators providing child custody and visitation mediation services
Salaries, wages, benefits, fees, and contract costs for other arbitration and mediation programs (programs not mandated by statute), e.g., arbitration administrators clerical support staff arbitrators' fees and expenses
Costs not reported in this function include
Related data processing (Function 9)
Any other related services, supplies, and equipment (Function 10)

Function 7. Court-Appointed Counsel (Noncriminal)

Costs reported in this function are
Expenses for court-appointed counsel as specified in Government Code §77003

Function 8. Court Security

Court security services as deemed necessary by the court. Includes only the duties of (a) courtroom bailiff,

(b) perimeter security (i.e., outside the courtroom but inside the court facility), and (c) at least .25 FTE dedicated supervisors of these activities.
Costs reported in this function are
Salary, wages, and benefits (including overtime) of sheriff, marshal, and constable employees who perform the court's security, i.e., bailiffs weapons-screening personnel
Salary, wages, and benefits (including overtime) of court staff performing court security, e.g., court attendants
Contractual security services
Salary, wages, and benefits of supervisors of sheriff, marshal, and constable employees whose duties are greater than .25 FTE dedicated to this function
Sheriff, marshal, and constable employee training
Purchase of security equipment
Maintenance of security equipment
Costs not reported in this function include
Other sheriff, marshal, or constable employees (unallowable)
Court attendant training (Function 10)
Overhead costs attributable to the operation of the sheriff and marshal offices (unallowable)
Costs associated with the transportation and housing of detainees from the jail to the courthouse (unallowable)
Service of process in civil cases (unallowable)
Services and supplies, including data processing, not specified above as allowable
Supervisors of bailiffs and perimeter security personnel of the sheriff, marshal, or constable office who supervise these duties less than .25 FTE time (unallowable)

Function 9. Information Technology

Costs reported in this function are
Salaries, wages, and benefits of court employees who plan, implement, and maintain court data processing and information technologies, e.g., programmers analysts
Contract and consulting services associated with court information/data processing needs and systems
County Information Systems/Data Processing Department charges made to court for court systems, e.g., jury-related systems

court and case management, including courts' share of a criminal justice information system accounts receivable/collections systems
Related services**,** supplies, and equipment, e.g., software purchases and leases maintenance of automation equipment training associated with data processing systems' development
Costs not reported in this function include
Information technology services not provided directly to the courts (i.e., services used by other budget units)
Data processing for county general services, e.g., payroll, accounts payable (Function 11)

Function 10. All Other Court Operations

Costs reported in this function are
Salaries, wages, and benefits (including any pay differentials and overtime) of court staff (a) not reported in Functions 2-9, or (b) whose time cannot be allocated to Functions 2-9 in increments of at least 25 percent time (.25 FTE);
Judicial benefits, county-paid
Allowable costs not reported in Functions 2-9.
(Nonjudicial staff) Cost items may include, for example, juvenile traffic hearing officer mental health hearing officer court-appointed hearing officer (pro tem) executive officer court administrator clerk of the court administrative assistant personnel staff legal research personnel; staff attorney; planning and research staff secretary courtroom clerk clerical support staff calendar clerk deputy clerk accountant cashier counter clerk microfilming staff

management analyst
probate conservatorship and guardianship investigators
probate examiner
training staff employed by the court

Personnel costs not reported in this function:

Any of the above not employed by the court

(Services and supplies) Cost items may include, for example,

office supplies
printing
postage
communications
publications and legal notices, by the court
miscellaneous departmental expenses
books, publications, training fees, and materials for court personnel (judicial and nonjudicial)
travel and transportation (judicial and nonjudicial)
professional dues
memberships and subscriptions
statutory multidistrict judges' association expenses
research, planning, and program coordination expenses
small claims advisor program costs
court-appointed expert witness fees (for the court's needs)
court-ordered forensic evaluations and other professional services (for the court's own use)
pro tem judges' expenses
micrographics expenses
public information services
vehicle use, including automobile insurance
equipment (leased, rented, or purchased) and furnishings, including interior painting, replacement/maintenance of flooring, and furniture repair
maintenance of office equipment
janitorial services
legal services for allowable court operations (County Counsel and contractual)
fidelity and faithful performance insurance (bonding and personal liability insurance on judges and court employees)
insurance on cash money and securities (hold-up and burglary)
general liability/comprehensive insurance for other than faulty maintenance or design of facility (e.g., "slip and fall," other injury, theft and damage of court equipment, slander, discrimination)
risk management services related to allowable insurance
space rental for court records

county records retention/destruction services
county messenger/mail service
court audits mandated under Government Code §71383

Service and supply costs not reported in this function include
Civic association dues (unallowable)
Facility damages insurance (unallowable)
County central service department charges not appropriated in the court budget (unallowable)

Function 11. County General Services ("Indirect Costs")

General county services are defined as all eligible accounting, payroll, budgeting, personnel, purchasing, and county administrator costs rendered in support of court operations. Costs for included services are allowable to the extent the service is provided to the court. The following costs, regardless of how characterized by the county or by which county department they are performed, are reported in this function only and are subject to the statutory maximum for indirect costs as specified in Government Code §77003. To the extent costs are allowable under this rule, a county's approved Cost Plan may be used to determine the specific cost although the cost categories, or functions, may differ.

Cost items within the meaning of rule 810(a)(7) and the county departments often performing the service may include, for example,

County Administrator
budget development and administration
interdepartmental budget unit administration and operations
personnel (labor) relations and administration

Auditor-Controller
payroll
financial audits
warrant processing
fixed asset accounting
departmental accounting for courts, e.g., fines, fees, forfeitures, restitutions, penalties, and assessments; accounting for the Trial Court Special Revenue Fund
accounts payable
grant accounting
management reporting
banking

Personnel
recruitment and examination of applicants
maintenance and certification of eligible lists
position classification

salary surveys
leave accounting
employment physicals
handling of appeals

Treasurer/Tax Collector
warrant processing
bank reconciliation
retirement system administration
receiving, safeguarding, investing, and disbursing court funds

Purchasing Agent
process departmental requisitions
issue and analyze bids
make contracts and agreements for the purchase or rental of personal property
store surplus property and facilitate public auctions

Unallowable costs
Unallowable court-related costs are those
(a) in support of county operations,
(b) expressly prohibited by statute,
(c) facility-related, or
(d) exceptions of the nature referenced in Functions 1-11.

Unallowable cost items, including any related data processing costs, are not reported in Functions 1-11 and may include, for example,

Communications
central communication control and maintenance for county emergency and general government radio equipment

Central Collections
processing accounts receivable for county departments (not courts)

County Administrator
legislative analysis and activities
preparation and operation of general directives and operating procedures
responses to questions from the Board, outside agencies, and the public
executive functions: Board of Supervisors
county advisory councils

Treasurer/Tax Collector
property tax determination, collection, etc.

General Services
rental and utilities support
coordinate county's emergency services

Property Management
negotiations for the acquisition, sale, or lease of property, except for space rented for storage of court records

making appraisals
negotiating utility relocations
assisting County Counsel in condemnation actions
preparing deeds, leases, licenses, easements
collecting rents
building lease management services (except for storage of court records)

Facility-related

construction services
right-of-way and easement services
purchase of land and buildings
construction
depreciation of buildings/use allowance
space rental/building rent (except for storage of court records)
building maintenance and repairs (except interior painting and to replace/repair flooring)
purchase, installation, and maintenance of H/V/A/C equipment
maintenance and repair of utilities
utility use charges (e.g., heat, light, water)
elevator purchase and maintenance
alterations/remodeling
landscaping and grounds maintenance services
exterior lighting and security
insurance on building damages (e.g., fire, earthquake, flood, boiler and machinery)
grounds' liability insurance
parking lot or facility maintenance
juror parking

(Subd (d) amended and relettered effective July 1, 1995.)

Rule 810 amended effective July 1, 1995; adopted effective July 1, 1988; previously amended effective January 1, 1989, July 1, 1990, July 1, 1991.

Drafter's Notes

1988—Rule 810 specifies what budget items are costs of court operations under Government Code section 77001 and are eligible for funding under the Trial Court Funding Act. Pursuant to the rule, the council published a List of Approved Costs.

The council amended the List by eliminating a previous limit of one sheriff, marshal, or constable per judicial position.

Rule 810 clarifies the meaning of "court operations" as stated in Gov C §77003 of the Trial Court Funding Act of 1985. To conform to recent legislation (Stats. 1988, ch. 945), the council

amended the rule to include within the definition of court operations the cost of collective bargaining. The council made conforming amendments to the List of Approved Costs.

1995—On the recommendation of the Trial Court Budget Commission, the council amended rule 810, which identifies the costs eligible for state funding under the Trial Court Funding Program, to clarify allowable costs and to ensure greater consistency among counties in cost reporting.

Rule 813. Reciprocal agreement and exchange assignment defined

> "Reciprocal agreement" and "exchange assignment," within the meaning of section 68541.5 of the Government Code, include any assignment that permits judges of courts in different counties to serve in each other's courts whenever needed, if advance notice of each instance of service is given to the Chair of the Judicial Council.

Rule 813 adopted effective July 1, 1990.

Drafter's Notes
1990—Rule 813 is adopted and effective July 1, 1990, to implement the urgency clause of the legislation (Stats. 1990, ch. 1486).

1991—The council adopted rule 813 to define "reciprocal agreement" and "exchange assignment" for purposes of waiving the 50/10 county reimbursements under Government Code section 65841.5. The new rule requires courts to notify the AOC when service is rendered under a reciprocal agreement or exchange assignment so a determination concerning applicability of the 50/10 waiver can be made. The rule has retroactive application to July 1, 1990, consistent with the legislative intent of 1990 Assembly Bill No. 596, which added section 65841.5 to the Government Code.

Rule 820. Motion to dismiss

> The procedure for seeking dismissal of a case pursuant to article 4 (§583.410 et seq.) of chapter 1.5 of title 8 of part 2 of the Code of Civil Procedure shall be in accord with rule 373.

Rule 820 amended effective January 1, 1986; adopted effective January 1, 1970; previously amended effective January 1, 1985.

Drafter's Notes
1985—See note following rule 373.

Rule 825. Submission of a cause in a trial court

(a) [Submission] A cause is deemed submitted in a trial court when either of the following first occurs:

(1) the date the court orders the matter submitted; or

(2) the date the final paper is required to be filed or the date argument is heard, whichever is later.

(Subd (a) adopted effective January 1, 1989.)

(b) [Vacating submission] The court may vacate submission only by issuing an order served on the parties stating reasons constituting good cause and providing for resubmission.

(Subd (b) adopted effective January 1, 1989.)

(c) [Pendency of a submitted cause] A submitted cause is pending and undetermined unless the court has announced its tentative decision or the cause is terminated. The time required to finalize a tentative decision shall not constitute time in which the cause is pending and undetermined. For purposes of this rule only, a motion which has the effect of vacating, reconsidering, or rehearing the cause shall be considered a separate and new cause and shall be deemed submitted as provided in subdivision (a).

(Subd (c) adopted effective January 1, 1989.)

Rule 825 adopted effective January 1, 1989.

Drafter's Notes
See notes following rules 205.1 and 298.

Rule 826. Notice when statute or regulation declared unconstitutional

Within 10 days after a court has entered judgment in a contested action or special proceeding in which the court has declared unconstitutional a state statute or regulation, the prevailing party, or as otherwise ordered by the court, shall mail a copy of the judgment and a notice of entry of judgment to the Attorney General and file a proof of service with the court.

Rule 826 adopted effective January 1, 1999.

Drafter's Notes
1999 — New rule 826 requires that the prevailing party, within 10 days after the court has declared a state statute or regulation unconstitutional, mail to the Attorney General a copy of the judgment and notice of entry of judgment.

Rule 827. [Repealed 1999]

Rule 827 repealed effective January 1, 1999; adopted effective January 1, 1989.

Rule 828. Traffic court—trial by written declaration

(a) [Applicability] This rule establishes the minimum procedural requirements for trials by written declaration under Vehicle Code section 40902. The procedures established by this rule shall be followed in all trials by written declaration under Vehicle Code section 40902.

(b) [Procedure]

(1) *(Definition of due date)* As used in this subdivision, "due date" means the last date on which defendant's appearance is timely.

(2) *(Extending due date)* If the clerk receives defendant's written request for a trial by written declaration by the appearance date indicated on the *Notice to Appear*, the clerk shall, within 15 calendar days after receiving defendant's written request, extend the appearance date 25 calendar days and shall give or mail notice to defendant of the extended due date on the *Request for Trial by Written Declaration* (form TR-205) with a copy of the *Instructions to Defendant* (form TR-200) and any other required forms.

(3) *(Election)* Defendant shall file a *Request for Trial by Written Declaration* (form TR-205) with the clerk by the appearance date indicated on the *Notice to Appear* or the extended due date as provided in subdivision (2). The *Request for Trial by Written Declaration* shall be filed in addition to defendant's written request for a trial by written declaration, unless defendant's request was made on the election form.

(4) *(Bail)* Defendant shall deposit bail with the clerk by the appearance date indicated on the *Notice to Appear* or the extended due date as provided in subdivision (2).

(5) (*Instructions to arresting officer*) If the clerk receives defendant's *Request for Trial by Written Declaration* (form TR-205) and bail by the due date, the clerk shall deliver or mail to the arresting officer's agency *Notice and Instructions to Arresting Officer* (form TR-210) and *Officer's Declaration* (form TR-235) with a copy of the *Notice to Appear* and a specified return

date for receiving the officer's declaration. After receipt of the officer's declaration, or at the close of the officer's return date if no officer's declaration is filed, the clerk shall submit the case file with all declarations and other evidence received to the court for decision.

(6) *(Court decision)* After the court decides the case and returns the file and decision, the clerk shall immediately deliver or mail the *Decision and Notice of Decision* (form TR-215) to defendant and arresting agency.

(7) *(Trial de novo)* If defendant files a *Request for New Trial (Trial de Novo)* (form TR-220) within 20 calendar days after the date of delivery or mailing of the *Decision and Notice of Decision*, the clerk shall set a trial date that shall be within 45 calendar days of receipt of defendant's written request for a trial de novo. The clerk shall deliver or mail to defendant and to the arresting officer's agency the *Order and Notice to Defendant of New Trial* (form TR-225). If defendant's request is not timely received, no trial de novo shall be held and the case shall be closed.

(8) *(Case and time standard)* The clerk shall deliver or mail the *Decision and Notice of Decision* (form TR-215) within 90 calendar days after the due date. Acts for which no specific time is stated in this rule shall be performed promptly so that the *Decision and Notice of Decision* can be timely delivered or mailed by the clerk. Failure of the clerk or the court to comply with any time limit shall not void or invalidate the decision of the court, unless prejudice to the defendant is shown.

(Subd (b) amended effective July 1, 2000; previously amended effective January 1, 2000.)

(c) [Due dates and time limits] Due dates and time limits shall be as stated in this rule, unless changed or extended by the court. The court may extend any date, but the court need not state the reasons for granting or denying an extension on the record or in the minutes.

(d) [Ineligible defendants] If defendant requests a trial by written declaration and the clerk or the court determines that defendant is not eligible for a trial by written declaration, the clerk shall extend the due date 25 calendar days and notify defendant by mail of the determination and due date.

(e) [Noncompliance] If defendant does not comply with this rule (including submitting the required bail amount, signing and filing all required forms, and complying with all time limits and due dates), the court may deny a trial by

written declaration and may proceed as otherwise provided by statute and court rules.

(f) [Evidence] Testimony and other relevant evidence may be introduced in the form of a *Notice to Appear* issued under Vehicle Code section 40500; a business record or receipt; a sworn declaration of the arresting officer; and, on behalf of the defendant, a sworn declaration of defendant.

(g) [Fines, assessments, or penalties] The statute and the rules shall not prevent or preclude the court from imposing on a defendant who is found guilty any lawful fine, assessment, or other penalty, and the court is not limited to imposing money penalties in the bail amount, unless the bail amount is the maximum and the only lawful penalty.

(h) [Additional forms and procedures] The clerk may approve and prescribe forms, time limits, and procedures that are not in conflict with or not inconsistent with the statute or this rule.

(i) [Forms] The following forms shall be used to implement the procedures under this rule:

(1) Instructions to Defendant (form TR-200)

(2) Request for Trial by Written Declaration (form TR-205)

(3) Notice and Instructions to Arresting Officer (form TR-210)

(4) Officer's Declaration (form TR-235)

(5) Decision and Notice of Decision (form TR-215)

(6) Request for New Trial (Trial de Novo) (form TR-220)

(7) Order and Notice to Defendant of New Trial (form TR-225)

(Subd (i) amended effective January 1, 2000.)

(j) [Local Forms] A court may adopt additional forms as may be required to implement this rule and the court's local procedures not inconsistent with this rule.

Rule 828 amended effective July 1, 2000; previously amended effective January 1, 2000; adopted effective January 1, 1999.

Drafter's Notes
1999—New rule 828 establishes a procedure for trials by written declaration for traffic infractions. Six new forms were adopted for these trials.

January 2000—Amended rule 828 clarifies procedures for processing cases involving trials by written declaration and deletes the requirement that the clerk mail the defendant a form for requesting a trial de novo along with the decision.

July 2000—Amended rule 828(b)(5) requires the clerk to send a copy of form TR-235, *Officer's Declaration,* to the arresting officer's agency when a defendant makes a request for trial by written declaration.

Rule 830. Trial settings

The judge or judges of a municipal or justice court may authorize the clerk to set a case for arraignment and trial on the same date at the request of a defendant released upon his written promise to appear. The clerk shall notify the defendant of the time and date set.

Rule 830 adopted effective January 1, 1971.

Rule 835. [Repealed 2001]

Rule 835 repealed effective January 1, 2001; amended effective January 1, 1986; adopted effective January 1, 1973. See rules 6.602, 6.603, 6.605, 6.608, and 6.610.

Rule 840. [Renumbered 2001]

Rule 840 renumbered rule 4.150 effective January 1, 2001; adopted effective March 4, 1972.

Rule 841. [Renumbered 2001]

Rule 841 amended and renumbered rule 4.152 effective January 1, 2001; adopted effective March 4, 1972.

Rule 842. [Renumbered 2001]

Rule 842 amended and renumbered rule 4.152 effective January 1, 2001; adopted effective March 4, 1972.

Rule 843. [Renumbered 2001]

Rule 843 renumbered rule 4.153 effective January 1, 2001; adopted effective March 4, 1972.

Rule 844. [Renumbered 2001]

Rule 844 renumbered rule 4.154 effective January 1, 2001; adopted effective March 4, 1972.

Rule 845. [Repealed 1998]

Rule 845 repealed effective July 1, 1998; adopted effective January 1, 1981.

Rule 847. [Repealed 1991]

Rule 847 adopted effective January 1, 1986; repealed effective July 1, 1991.

Drafter's Notes
1991—The council adopted new rule 989.5 of the California Rules of Court to prohibit smoking in all trial and appellate court facilities, and repealed rule 847 and section 17 of the Standards of Judicial Administration.

Rule 850. [Renumbered 2001]

Rule 850 amended and renumbered rule 4.102 effective January 1, 2001; adopted effective January 1, 1965; previously amended effective January 1, 1970, January 1, 1971, July 1, 1972, January 1, 1973, January 1, 1974, July 1, 1975, July 1, 1979, July 1, 1980, July 1, 1981, January 1, 1983, July 1, 1984, July 1, 1986, January 1, 1989, January 1, 1990, January 1, 1993, January 1, 1995, and January 1, 1997.

Rule 851. Procedures and eligibility criteria for attending traffic violator school

(a) [Purpose] The purpose of this rule is to establish uniform statewide procedures and criteria for eligibility to attend traffic violator school.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(b) [Authority of a court clerk to grant pretrial diversion]

(1) *(Eligible offenses)* Except as provided in subdivision (2), a court clerk is authorized to grant a request to attend traffic violator school when a defendant with a valid driver's license requests to attend an 8-hour traffic violator school as pretrial diversion under Vehicle Code sections 41501(b) and 42005 for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.

(2) *(Ineligible offenses)* A court clerk is not authorized to grant a request to attend traffic violator school for a misdemeanor or any of the following infractions:

(A) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810 or more than one and one-half points under Vehicle Code section 12810.5(b)(2);

(B) A violation that occurs within 18 months after the date of a previous violation and the defendant either attended or elected to attend a traffic violator school for the previous violation (Veh. Code, § 1808.7);

(C) A violation of Vehicle Code section 22406.5 (tank vehicles);

(D) A violation related to alcohol use or possession or drug use or possession;

(E) A violation on which the defendant failed to appear under Vehicle Code section 40508(a) unless the failure-to-appear charge has been adjudicated and any fine imposed has been paid;

(F) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid;

(G) A speeding violation in which the speed alleged is more than 25 miles over a speed limit as set forth in Chapter 7 (commencing with section 22348) of Division 11 of the Vehicle Code.

(Subd (b) amended effective January 1, 2003.)

(c) [Judicial discretion]

(1) A judicial officer may in his or her discretion order attendance at a traffic violator school in an individual case for diversion under Vehicle Code section 41501(a), 41501(b), or 42005; sentencing; or any other purposes permitted by law.

(2) If a violation occurs within 18 months of a previous violation, a judicial officer may order a continuance and dismissal in consideration for completion of a licensed program as specified in Vehicle Code section

41501(a). The program must consist of at least 12 hours of instruction as specified in section 41501(a). Pursuant to Vehicle Code section 1808.7, a dismissal for completion of the 12-hour program under this subdivision is not confidential.

(Subd (c) amended and relettered as part of subd (b) effective January 1, 2003; previously amended effective January 1, 1998.)

Rule 851 amended effective January 1, 2003; adopted effective January 1, 1997; previously amended effective January 1, 1998, and July 1, 2001.

Drafter's Notes
1997—Rule 851 was adopted to establish uniform statewide criteria for eligibility to attend traffic violator school as pretrial diversion under Vehicle Code sections 41501 and 42005.3. The rule also allows commercial drivers to attend traffic violator school.

1998—This rule was amended to correct a previous oversight that excluded commercial drivers from attending traffic violator schools for certain otherwise eligible violations.

2001—This revision replaces a statutory reference to Vehicle Code section 42005.3 with a correct reference to Vehicle Code section 42005.

Rule 855. [Repealed 2001]

Rule 855 repealed effective January 1, 2001; adopted effective July 1, 1986. See rule 243.1, 243.2, 243.3, and 243.4.

Former Rule
Former rule 855, relating to violations of the Vehicle Code, was adopted effective March 4, 1972, amended effective July 1, 1975, and repealed effective July 1, 1981.

Rule 859. Deferral of jury service

A mother who is breastfeeding a child may request that jury service be deferred for up to one year, and may renew that request as long as she is breastfeeding. If the request is made in writing, under penalty of perjury, the jury commissioner must grant it without requiring the prospective juror to appear at court.

Rule 859 adopted effective July 1, 2001.

Drafter's Notes
2001—Rule 859 implements Assembly Bill 1814, which requires the Judicial Council to "adopt a rule of court to specifically allow the mother of a breastfeeding child to postpone jury service for a period of up to one year."

Former rule
Rule 859 repealed effective January 1, 2001; adopted effective July 1, 1990. See rule 243.4.

Drafter's Notes (former rule)
1990—The council adopted new rule 33.5 to standardize the way a record of confidential in-camera proceedings is transmitted to the reviewing court. Rule 33.5(a) deals with proceedings pursuant to *People* v. *Marsden* (1970) 2 Cal.3d 118, and rule 33.5(b) deals with all other confidential in-camera proceedings. The council also adopted new rule 859 to ensure that the fact that there were confidential proceedings will appear in the minutes.

Rule 860. [Repealed 1985]

Adopted effective January 1, 1975; amended effective January 1, 1976, January 1, 1977, January 1, 1978, January 1, 1979, January 1, 1981, and January 1, 1983; repealed effective January 1, 1985.

Drafter's Notes
1984—Rule 860 was repealed because legislation (Stats. 1984, ch. 194) sought by the council repealed the statutes requiring court reporters to report income and production to the Judicial Council (Gov. Code, §§68513, 68513.2,ff.).

Rule 860. Granting excuses from jury service

(a) [Duty of citizenship] Jury service, unless excused by law, is a responsibility of citizenship. The court and its staff shall employ all necessary and appropriate means to ensure that citizens fulfill this important civic responsibility.

(b) [Principles] The following principles shall govern the granting of excuses from jury service by the jury commissioner on grounds of undue hardship under Code of Civil Procedure section 204:

(1) No class or category of persons shall be automatically excluded from jury duty except as provided by law.

(2) A statutory exemption from jury service shall be granted only when the eligible person claims it.

(3) Deferring jury service shall be preferred to excusing a prospective juror for a temporary or marginal hardship.

(4) Inconvenience to a prospective juror or an employer is not an adequate reason to be excused from jury duty, although it may be considered a ground for deferral.

(c) [Requests to be excused] All requests to be excused from jury service that are granted for undue hardship shall be put in writing by the prospective juror, reduced to writing, or placed on the court's record. The prospective juror shall support the request with facts specifying the hardship and a statement why the circumstances constituting the undue hardship cannot be avoided by deferring the prospective juror's service.

(d) [Grounds constituting undue hardship] An excuse on the ground of undue hardship may be granted for any of the following reasons:

(1) The prospective juror has no reasonably available means of public or private transportation to the court.

(2) The prospective juror must travel an excessive distance. Unless otherwise established by statute or local rule, an excessive distance is reasonable travel time that exceeds one-and-one-half hours from the prospective juror's home to the court.

(3) The prospective juror will bear an extreme financial burden. In determining whether to excuse the prospective juror, consideration shall be given to:

(i) the sources of the prospective juror's household income,

(ii) the availability and extent of income reimbursement,

(iii) the expected length of service, and

(iv) whether service can reasonably be expected to compromise that person's ability to support himself or herself or his or her dependents, or so disrupt the economic stability of any individual as to be against the interests of justice.

(4) The prospective juror will bear an undue risk of material injury to or destruction of the prospective juror's property or property entrusted to the prospective juror, and it is not feasible to make alternative arrangements to alleviate the risk. In determining whether to excuse the prospective juror, consideration shall be given to:

(i) the nature of the property,

(ii) the source and duration of the risk,

(iii) the probability that the risk will be realized,

(iv) the reason alternative arrangements to protect the property cannot be made, and

(v) whether material injury to or destruction of the property will so disrupt the economic stability of any individual as to be against the interests of justice.

(5) The prospective juror has a physical or mental disability or impairment, not affecting that person's competence to act as a juror, that would expose the potential juror to undue risk of mental or physical harm. In any individual case, unless the person is aged 70 years or older, the prospective juror may be required to furnish verification or a method of verification of the disability or impairment, its probable duration, and the particular reasons for the person's inability to serve as a juror.

(6) The prospective juror's services are immediately needed for the protection of the public health and safety, and it is not feasible to make alternative arrangements to relieve the person of those responsibilities during the period of service as a juror without substantially reducing essential public services.

(7) The prospective juror has a personal obligation to provide actual and necessary care to another, including sick, aged, or infirm dependents, or a child who requires the prospective juror's personal care and attention, and no comparable substitute care is either available or practical without imposing an undue economic hardship on the prospective juror or person cared for. If the request to be excused is based on care provided to a sick, disabled, or infirm person, the prospective juror may be required to furnish verification or a method of verification that the person being cared for is in need of regular and personal care.

(e) [Prior jury service] A prospective juror who has served on a grand or trial jury or was summoned and appeared for jury service in any state or federal court during the previous 12 months shall be excused from service on request. The jury commissioner, in his or her discretion, may establish a longer period of repose.

Rule 860 adopted effective July 1, 1997.

Rule 861. Length of juror service

(a) [Purpose] The purpose of this rule is to implement Government Code section 68550, which is intended to make jury service more convenient and alleviate the problem of potential jurors refusing to appear for jury duty by shortening the time a person would be required to serve to one day or one trial. The exemptions afforded by the rule are intended to be of limited scope and duration, and they should be applied with the goal of achieving full compliance throughout the state as soon as possible.

(b) [Definitions]

(1) "Trial court system" means all the courts of a county.

(2) "One trial" means jury service provided by a citizen after being sworn as a trial juror.

(3) "One day" means the hours of one normal court working day (the hours a court is open to the public for business).

(4) "On call" means all same-day notice procedures used to inform prospective jurors of the time they are to report for jury service.

(5) "Telephone standby" means all previous-day notice procedures used to inform prospective jurors of their date to report for service.

(c) [One-day/one-trial] By January 1, 2000, each trial court system shall implement a juror management program under which a person has fulfilled his or her jury service obligation when he or she has:

(1) Served on one trial until discharged,

(2) Been assigned on one day to one or more trial departments for jury selection and served through the completion of jury selection or until excused by the jury commissioner,

(3) Attended court but was not assigned to a trial department for selection of a jury before the end of that day,

(4) Served one day on call, or

(5) Served no more than five court days on telephone standby.

(d) [Exemption]

(1) (*Good cause)* The Judicial Council may grant an exemption from the requirements of this rule for a specified period of time if the trial court system demonstrates good cause by establishing that:

(A) The cost of implementing a one-day/one-trial system is so high that the trial court system would be unable to provide essential services to the public if required to implement such a system, or

(B) The requirements of this rule cannot be met because of the size of the population in the county compared to the number of jury trials.

(2) (*Application*) Any application for exemption from the requirements of this rule must be submitted to the Judicial Council no later than September 1, 1999. The application shall demonstrate good cause for the exemption sought and shall include either:

(A) A plan to fully comply with this rule by a specified date, or

(B) An alternative plan that would advance the purposes of this rule to the extent possible, given the conditions in the county.

(3) (*Decision*) If the council finds good cause, it may grant an exemption for a limited period of time and on such conditions as it deems appropriate to further the purposes of this rule.

(e) [Limited on-call exemption] If the jury commissioner determines and demonstrates to the Judicial Council by September 1, 1999, that limiting on-call service to one day by January 1, 2000, would seriously impair the trial court system's ability to impanel juries within the time limits for trial in criminal cases, the court system may require jurors to serve:

(1) Up to three days on call until December 31, 2000;

(2) Up to two days on call until December 31, 2001; and

(3) No more than one day on call on or after January 1, 2002.

Rule 861 adopted effective July 1, 1999.

Drafter's Notes
1999—This new rule requires all courts to adopt a one-day/one-trial jury system by January 1, 2000, unless granted an exemption by the Judicial Council.

Rule 870. Prejudgment costs

(a) [Claiming costs]

(1) *(Trial costs)* A prevailing party who claims costs shall serve and file a memorandum of costs within 15 days after the date of mailing of the notice of entry of judgment or dismissal by the clerk under Code of Civil Procedure section 664.5 or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first. The memorandum of costs shall be verified by a statement of the party, attorney, or agent that to the best of his or her knowledge the items of cost are correct and were necessarily incurred in the case.

(2) *(Costs on default)* A party seeking a default judgment who claims costs shall request costs on the Request to Enter Default form at the time of applying for the judgment.

(b) [Contesting costs]

(1) *(Striking and taxing costs)* Any notice of motion to strike or to tax costs shall be served and filed 15 days after service of the cost memorandum. If the cost memorandum was served by mail, the period is extended as provided in Code of Civil Procedure section 1013.

(2) *(Form of motion)* Unless objection is made to the entire cost memorandum, the motion to strike or tax costs shall refer to each item objected to by the same number and appear in the same order as the corresponding cost item claimed on the memorandum of costs and shall state why the item is objectionable.

(3) *(Extensions of time)* The party claiming costs and the party contesting costs may agree to extend the time for serving and filing the cost memorandum and a motion to strike or tax costs. This agreement shall be confirmed in writing, specify the extended date for service, and be filed with the clerk. In the absence of an agreement, the court may extend the times for serving and filing the cost memorandum or the notice of motion to strike or tax costs for a period not to exceed 30 days.

(4) *(Entry of costs)* After the time has passed for a motion to strike or tax costs or for determination of that motion, the clerk shall enter the costs on the judgment forthwith.

Rule 870 adopted effective January 1, 1987.

Drafter's Notes
1987—Rule 870 is added (1) to recite the procedures for claiming and contesting prejudgment costs and increase the times for filing and serving a memorandum of cost and a notice of motion to tax costs from 10 to 15 days so that the motions relating to costs, attorney fees, and new trials may be heard simultaneously; (2) to require a maximum time of 180 days from entry of judgment for serving and filing a memorandum of cost; and (3) to recite procedures for costs on default, extensions of time, and entry of costs.

Rule 870.2. Claiming attorney fees

(a) [Applicability] Except as otherwise provided by statute, this rule applies in civil cases to claims for statutory attorney fees and claims for attorney fees provided for in a contract.

Subdivisions (b) and (c) apply when the court determines entitlement to the fees, the amount of the fees, or both, whether the court makes that determination because the statute or contract refers to "reasonable" fees, because it requires a determination of the prevailing party, or for other reasons.

(b) [Attorney fees before trial court judgment]

(1) A notice of motion to claim attorney fees for services up to and including the rendition of judgment in the trial court—including attorney fees on an appeal before the rendition of judgment in the trial court—shall be served and filed within the time for filing a notice of appeal under rules 2 and 3.

(2) The parties may, by stipulation filed before the expiration of the time allowed under subdivision (b)(1) extend the time for filing a motion for attorney fees (i) until 60 days after the expiration of the time for filing a notice of appeal; or (ii) if a notice of appeal is filed, until the time within which a memorandum of costs must be served and filed under rule 26(d).

(Subd (b) amended effective January 1, 1999.)

(c) [Attorney fees on appeal]

(1) A notice of motion to claim attorney fees on appeal—other than the attorney fees on appeal claimed under subdivision (b)—under a statute or contract requiring the court to determine entitlement to the fees, the amount of the fees, or both, shall be served and filed within the time for serving and filing the memorandum of costs under rule 26(d).

(2) The parties may by stipulation filed before the expiration of the time allowed under subdivision (c)(1) extend the time for filing the motion up to an additional 60 days.

(Subd (c) amended effective January 1, 1999.)

(d) [Extensions] For good cause, the trial judge may extend the time for filing a motion for attorney fees in the absence of a stipulation or for a longer period than allowed by stipulation.

(Subd (d) adopted effective January 1, 1999.)

(e) [Attorney fees fixed by formula] If a party is entitled to statutory or contractual attorney fees that are fixed without the necessity of a court determination, the fees shall be claimed in the memorandum of costs.

(Subd (e) relettered effective January 1, 1999; adopted as subd (d).)

Rule 870.2 amended effective January 1, 1999; adopted effective January 1, 1994.

Former Rule
Former rule 870.2, similar to the present rule, was adopted effective January 1, 1987, and repealed effective January 1, 1994.

Drafter's Notes
1994—New rule 870.2 governs procedure for claiming attorney fees in civil cases.

1999—Amended rule 870.2 (1) allows a party to postpone seeking attorney fees for an appeal that occurred before the end of the litigation until after the litigation has ended; and (2) allows the party to seek those attorney fees on appeal in the same motion in which the party seeks to recover trial court attorney fees. The amendments also allow the time for filing a motion to recover attorney fees on appeal, as well as trial court attorney fees, to be extended by stipulation of the parties or by court order.

Rule 870.4. Unlawful detainer—supplemental costs

In unlawful detainer proceedings, the plaintiff who has complied with section 1034.5 of the Code of Civil Procedure may, no later than 10 days after being

advised by the sheriff or marshal of the exact amount necessarily used and expended to effect the eviction, file a supplemental cost memorandum claiming the additional costs and specifying the items paid and the amount. The defendant may move to tax those costs within 10 days after service of the supplemental cost memorandum. After costs have been fixed by the court, or upon failure of the defendant to file a timely notice of motion to tax costs, the clerk shall immediately enter judgment for the costs. The judgment may be enforced in the same manner as a money judgment.

Rule 870.4 adopted effective January 1, 1987.

Drafter's Notes
1987—Rule 870.4 is added to recite the procedures for recovery of supplemental costs in unlawful detainer proceedings.

Rule 875. Inclusion of interest in judgment

The clerk shall include in the judgment any interest awarded by the court and the interest accrued since the entry of the verdict.

Rule 875 adopted effective January 1, 1987.

Rule 880. Temporary judges, referees, and privately compensated judges—definitions

In these rules, unless the context or subject matter otherwise requires:

(1) "Temporary judge" means a member of the State Bar appointed pursuant to article VI, section 21 of the California Constitution and rule 244 or rule 532.

(2) Unless otherwise indicated, "referee" means a person appointed under section 638 or 639 of the Code of Civil Procedure.

(3) "Privately compensated" means that a temporary judge or referee is paid by the parties.

Rule 880 adopted effective July 1, 1993.

Rule 890. Court reporting services in civil cases—municipal and justice courts

(a) [Statutory reference; applicability] This rule is adopted pursuant to Government Code section 68086(b) and shall be applied so as to give effect to that section. It applies to all municipal and justice courts.

(b) [Notice of availability; parties' request]

(1) Each trial court shall adopt and post in the clerk's office a local policy enumerating the departments in which official reporting services, as defined in this rule, are normally available, and the departments in which official reporting services are not normally available during regular court hours. If official reporting services are normally available in a department only for certain types of matters, those matters shall be identified in the policy.

The court shall publish its policy in a newspaper if one is published in the county. In lieu of publishing the policy, the court may

(i) send each party a copy of the policy at least 10 days before any hearing is held in a case, or

(ii) adopt the policy as a local rule.

(2) Unless the court's policy states that all courtrooms normally have official reporting services available for civil trials, the court shall require that each party file a statement before the trial date indicating whether the party requests the presence of official reporting services. If a party requests the presence of official reporting services and it appears that none will be available, the clerk shall notify the party of that fact as soon as possible before the trial. If official reporting services are normally available in all courtrooms, the clerk shall notify the parties to a civil trial as soon as possible if it appears that those services will not be available.

(3) If official reporting services will not be available during a hearing on law and motion or other nontrial matters in civil cases, that fact shall be noted on the court's official calendar.

(c) [Party may procure reporter] If official reporting services are not available for a hearing or trial in a civil case, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

(d) [No additional charge if party arranges for reporter] If a party arranges and pays for the attendance of a certified shorthand reporter at a hearing in a civil

case because of the unavailability of official reporting services, none of the parties shall be charged the fee for official reporting services provided for in Government Code section 68086(b)(1).

(e) [Definitions] As used in this rule and in Government Code section 68086:

(1) "Civil case" includes all matters other than criminal and juvenile matters.

(2) "Official reporter" and "official reporting services" both include an official court reporter or official reporter as those phrases are used in statutes, including Code of Civil Procedure sections 269 and 274c and Government Code section 69941, and include an official reporter pro tempore as the phrase is used in Government Code section 69945 and other statutes, whose fee for attending and reporting proceedings is paid for by the court or the county, and who attends court sessions as directed by the court, and who was not employed to report specific causes at the request of a party or parties. "Official reporter" and "official reporting services" do not include official reporters pro tempore employed by the court expressly to report only criminal, or criminal and juvenile, matters.

"Official reporting services" also include electronic recording equipment operated by the court to make the official verbatim record of proceedings.

Rule 890 adopted effective January 1, 1994.

Drafter's Notes
1994—Rules 890 and 891 implement the mandate of Government Code section 68086, which requires the Judicial Council to adopt rules requiring all superior, municipal, and justice courts to give notice of the availability of official court reporters or of "official reporting services."

Rule 891. Court reporting services in civil cases—superior court departments generally

(a) [Statutory reference; applicability] This rule is adopted solely to effectuate the statutory mandate of Government Code section 68086(a) and shall be applied so as to give effect to that section. It applies to superior court departments.

(Subd (a) amended effective January 31, 1997.)

(b) [Notice of availability; parties' request]

(1) Each trial court shall adopt and post in the clerk's office a local policy enumerating the departments in which the services of official court reporters are normally available, and the departments in which the services of official court reporters are not normally available during regular court hours. If the services of official court reporters are normally available in a department only for certain types of matters, those matters shall be identified in the policy.

The court shall publish its policy in a newspaper if one is published in the county. In lieu of publishing the policy, the court may (i) send each party a copy of the policy at least 10 days before any hearing is held in a case, or (ii) adopt the policy as a local rule.

(2) Unless the court's policy states that all courtrooms normally have the services of official court reporters available for civil trials, the court shall require that each party file a statement before the trial date indicating whether the party requests the presence of an official court reporter. If a party requests the presence of an official court reporter and it appears that none will be available, the clerk shall notify the party of that fact as soon as possible before the trial. If the services of official court reporters are normally available in all courtrooms, the clerk shall notify the parties to a civil trial as soon as possible if it appears that those services will not be available.

(3) If the services of an official court reporter will not be available during a hearing on law and motion or other nontrial matters in civil cases, that fact shall be noted on the court's official calendar.

(c) [Party may procure reporter] If the services of an official court reporter are not available for a hearing or trial in a civil case, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter. It is that party's responsibility to pay the reporter's fee for attendance at the proceedings, but the expense may be recoverable as part of the costs, as provided by law.

(d) [No additional charge if party arranges for reporter] If a party arranges and pays for the attendance of a certified shorthand reporter at a hearing in a civil case because of the unavailability of the services of an official court reporter, none of the parties shall be charged the reporter's attendance fee provided for in Government Code section 68086(a)(1).

(e) [Definitions] As used in this rule and in Government Code section 68086:

(1) "Civil case" includes all matters other than criminal and juvenile matters.

(2) "Official reporter" means an official court reporter or official reporter as those phrases are used in statutes, including Code of Civil Procedure section 269 and Government Code section 69941; and includes an official reporter pro tempore as the phrase is used in Government Code section 69945 and other statutes, whose fee for attending and reporting proceedings is paid for by the court or the county, and who attends court sessions as directed by the court, and who was not employed to report specific causes at the request of a party or parties. "Official reporter" does not include official reporters pro tempore employed by the court expressly to report only criminal, or criminal and juvenile, matters.

Rule 891 amended effective January 31, 1997; adopted effective January 1, 1994.

Drafter's Notes

1994—Rules 890 and 891 implement the mandate of Government Code section 68086, which requires the Judicial Council to adopt rules requiring all superior, municipal, and justice courts to give notice of the availability of official court reporters or of "official reporting services."

Rule 892. Assessing fee for reporting services

The half-day fee to be charged pursuant to Government Code section 68086 when the court provides verbatim recordkeeping services shall be established by the trial court as follows:

(a) For a trial or portion of a trial in which a certified shorthand reporter is used, the fee shall be equal to the average salary and benefit costs of the reporter, plus indirect costs up to 18 percent of salary and benefits. For purposes of this rule, the daily salary shall be determined by dividing the average annual salary of temporary and full-time reporters by 225 work days.

(b) In municipal court proceedings, for a trial or portion of a trial in which audio or videotape record services are used and a person is used exclusively to monitor the equipment the fee shall be equal to the average equipment cost, together with salary and benefit costs of the monitor plus indirect costs up to 18 percent of equipment, salary, and benefits. For purposes of this rule, the daily salary shall be determined by dividing the average annual salary of temporary and full-time monitors by 225 work days.

(Subd (b) amended effective January 31, 1997.)

(c) In municipal court proceedings, for a trial or portion of a trial in which audio or videotape record services are used without a person exclusively to monitor the equipment, the fee shall be based on the average daily cost of the equipment, plus indirect costs up to 18 percent of the equipment cost.

(Subd (c) amended effective January 31, 1997.)

(d) As used in this rule, equipment cost in municipal court proceedings shall include the cost of acquisition, installation, and maintenance, amortized over the useful life of the equipment, or if the equipment is leased, its rental cost.

(Subd (d) amended effective January 31, 1997.)

(e) Unless the court orders otherwise for good cause, a half-day fee shall be charged for any matter which lasts more than one hour. A full day fee shall be charged for any matter lasting more than four hours.

Rule 892 amended effective January 31, 1997; adopted effective January 1, 1994.

Drafter's Notes
1994—Rule 892 establishes a maximum 18 percent overhead component in establishing the fee for reporting services under Government Code section 68086 and specifies uniform methods for calculating the salary and benefits of reporting personnel and for applying the fee.

The new rule is expected to result in savings for litigants as well as some degree of consistency in fees throughout the state.

Rule 895. [Renumbered 2001]

Rule 895 amended and renumbered rule 4.320 effective January 1, 2001; adopted effective July 1, 1998.